Republican Backbone: Profiling New Assembly Republican Leader Scott Baugh

CALIFORNIA★POLITICAL
REVIEW
MAY/JUNE 1999 • VOLUME 10 • NUMBER 3 • $4.00

Kevin Teasley asks: Is it time For a School Choice Initiative?

Duane Dichiara on Union Grassroots Activism

Glynn Custred reviews Shelby Steel's *A Dream Deferred*

Sacramento Eyes a Robust Economy

How Pete Wilson's 'fiscal conservatism' helped old-time Democrat liberalism revive and restore The Era of Big Government

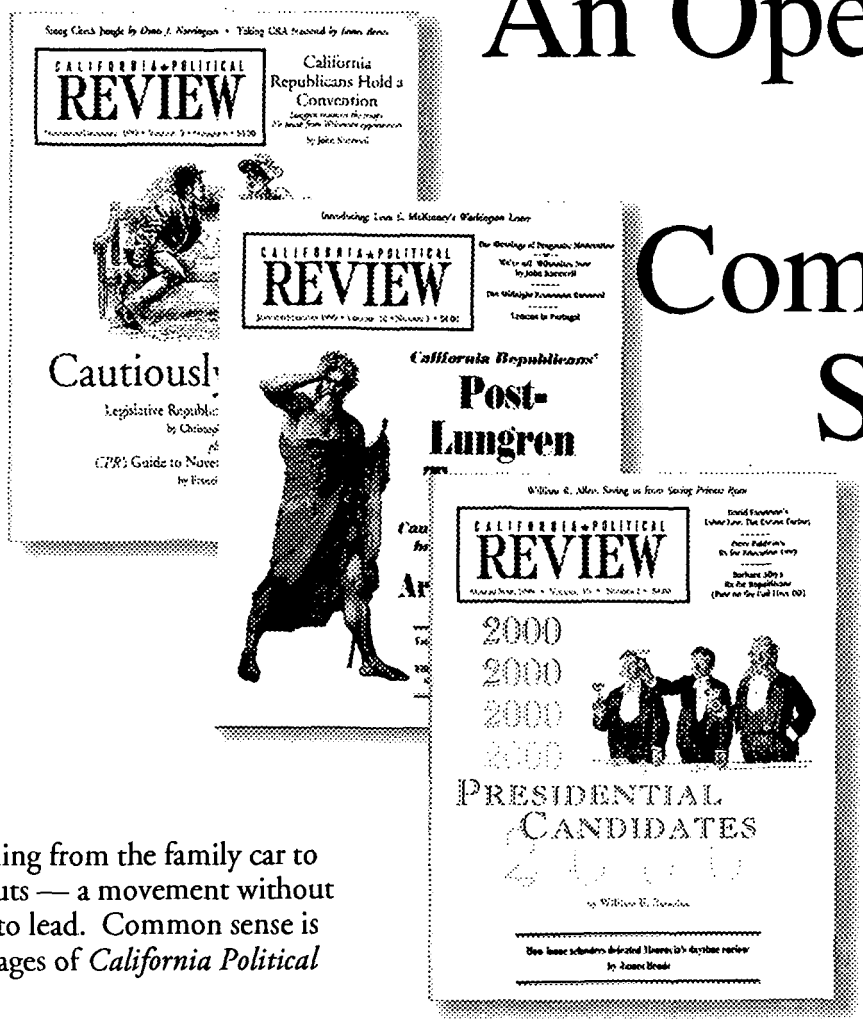
by Ray Haynes

The Litigation Lottery Spins Out of Control

by Mark S. Pulliam

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

An Opening for Common Sense



"The beginning of political wisdom is the recognition that liberalism is at the end of its intellectual tether."
— Irving Kristol

What used to be called "liberalism" has degenerated into reflexive attacks on everything from the family car to free speech to the Boy Scouts — a movement without a mind and with nowhere to lead. Common sense is the cure — find it in the pages of *California Political Review.* Subscribe today!

I can't tell you how impressed I am with California Political Review. — William A. Rusher

California Political Review's pages reflect the common sense conservative principles that guided the administrations of Ronald Reagan in which I was privileged to serve — a refreshing voice on California's political scene. — Hon. Edwin Meese III

California Political Review is filling a critical need in the Golden State. — Bruce Herschensohn

Send me a full year of *California Political Review* (SIX bimonthly issues) for the special NEW SUBSCRIBER rate of just $14.95 — more than 40% off the cover price! ___ Check (payable to the California Public Policy Foundation) ___ Credit Card: ___ MC ___ Visa

Credit Card # _____ Exp. Date _____ Signature _____

Call: 1-800-887-7676

or send this form to the address below. Thank you.

Name _____
Please Print
Address _____
City _____
State _____ Zip _____

CALIFORNIA★POLITICAL
REVIEW

Must reading for informed Conservatives

California Political Review, P.O. Box 931 Camarillo, California 93011-0931 • www.californiapoliticalrev.org

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CALIFORNIA * POLITICAL

REVIEW

MAY/JUNE 1999 • VOLUME 10 • NUMBER 3

FEATURES

COVER ARTICLE: Sacramento Eyes a Robust Economy By Ray Haynes 12
How Pete Wilson's 'fiscal conservatism' helped old-time Democrat liberalism restore The Era of Big Government.

Washington Letter: Leon McKinney's California Congressional Delegation Report 17
Clinton abets Red China espionage. White House/Democrats ignore evidence of missile technology transfers; punish whistle-blowers; stall release of Cox Committee report.

The Litigation Lottery Spins Out of Control By Mark S. Pulliam 19
In 1974, Yale Law School scholar Grant Gilmore prophesied that '[t]he worse the society, the more law there will be. In Hell, there will be nothing but law.' The heat here is beginning to become intense.

Republican Backbone By Leon McKinney and John Kurzweil 27
Profiling new Assembly Republican Leader Scott Baugh.

DEPARTMENTS

Correspondence 2

Sacramento Spectator 3

Education By Kevin Teasley 4

The Front Line By Duane Dichiara 5

Facts about Gun Control 6

Legislative File 7

The Working Press By Tim W. Ferguson 8

Midnight Economist By William R. Allen 11

ARTS & CULTURE

Criticus By G.B. Tennyson 30

"Cathedral Sparrow – or Eagle?" — Mindful of his duties as *CPR's* European correspondent, Criticus ventured yet again to Germany, this time in and around Holy Week. As ever, art and culture obtruded and enlightened him on his way.

Books 35

"A Dream Deferred – The Second Betrayal of Black Freedom in America" By Shelby Steele
Why do Republicans shy away from a fundamental Republican, and a popular, idea: that we all should focus on succeeding through self-reliance and individual excellence — not race preferences?

Reviewed by Glynn Custred

A PUBLICATION OF THE CALIFORNIA PUBLIC POLICY FOUNDATION

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CALIFORNIA * POLITICAL
REVIEW

A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

JOHN KURZWEIL
EDITOR & PUBLISHER

JAN EDWARDS
MANAGING EDITOR

CONTRIBUTING EDITORS
DAN BRENNAN
LEON MCKINNEY • *WASHINGTON LETTER*
RICHARD FERRIER • *ACADEME*
STEVE BALDWIN • *EDUCATION*
MARK S. PULLIAM • *LEGAL ISSUES CORRESPONDENT*
WILLIAM R. ALLEN • *ECONOMICS CORRESPONDENT*
TIM W. FERGUSON • *THE WORKING PRESS*
RICHARD MORGAN • *POET LAUREATE*
DAVID FAUSTMAN • *BOOKS*

GENE FOLEY • *BUSINESS MANAGER*
PAUL MCCAULEY • *BUSINESS SERVICES*
SHAWN STEEL • *LEGAL ADVISOR*

EDITORIAL BOARD

JOSEPH FARAH, PETER HANNAFORD,
DAVID HOROWITZ,
HAROLD JOHNSON, MANUEL S. KLAUSNER,
WILLIAM RUSHER, WILLIAM SARACINO,
G. B. TENNYSON

California Political Review (ISSN 1075-3079) is published bimonthly by the California Public Policy Foundation. Send address changes, manuscripts, and Correspondence to: Editor, *California Political Review*, Post Office Box 931, Camarillo, CA 93011-0931. Correspondence may be condensed due to space limitations. Unsolicited manuscripts should be accompanied by a stamped, self-addressed envelope. Signed articles express their authors' opinions and do not necessarily reflect the views of the California Public Policy Foundation which does not endorse or oppose candidates or intervene in any candidate election campaign. Unsigned editorials express the editors' opinions and not necessarily the views of the California Public Policy Foundation. Rates: $24 yearly (six issues). Outside U.S. add $4 per year surface, $20 for airmail. *California Political Review* is copyright © 1998 by the California Public Policy Foundation.

California Political Review (ISSN 1075-3079) is published bimonthly for $24 per year by the California Public Policy Foundation, 15456 Ventura Blvd., Suite 300, Sherman Oaks, CA 91403. Periodical Postage Paid at Van Nuys, CA, and additional mailing offices. POSTMASTER: Send address changes to *California Political Review*, P.O. Box 931, Camarillo, CA 93011-0931.

CORRESPONDENCE

Very Disappointed

I've been very disappointed with your magazine. I used to read the California insert in *National Review*, it was my favorite part; but I've not found the same enjoyment in *CPR*. I was most disappointed at your coverage of the Lungren Campaign. You remind me of radical rightists who aren't satisfied with anyone.

Tom Burdick
Riverside

CPR Editor John Kurzweil responds:

Sorry you find CPR less enjoyable than NR West. However, it seems a little harsh to say CPR is not "satisfied with anyone" because we point out flaws in a campaign that began with the unified support of California Republicans, the opportunity to run on a platform of positions so popular the Democrats have stolen most of them, in word if not in deed, and that nonetheless contrived to lose by 20 points to a lackluster opponent. When a man advertises himself as a "conservative" and yet allows liberals to dictate both the tone and substance of his campaign, arrogantly implying all the while that his personal ambition, not the good of the people of California, is the important cause at stake, what should a conservative journal report? That all is well? And what would we say once such a dishonest, not to say disoriented, campaign played out to its inevitably disastrous end? Gee, guess it just wasn't a good year for Republicans? Trying to learn from mistakes is rarely enjoyable, but it seems more honest and wise than pretending none were made.

Go After the Gender Gap?

Barbara Alby ("Political Cod Liver Oil," *CPR*, March/April 1999) tells us we should "put a better face on our ideas (and) go after the gender gap." In other words, the very opposite of her own exhortation not to capitulate, compromise, or abandon our values. She wants us to be more compassionate yet not to moderate our message. In other words, it's apparently a mere matter of appearances, not substance. "There's nothing wrong with our message," she says, and we should "articulate our message" — "what we believe" — but she never goes into the necessary detail about what such views — or popularly, "vision" — should be. For her, as for more women than men, "policies" should be whatever benefit a particular individual, *e.g.*, in her case, the economic uplift from Reagan's supply-side policies.

But such policy formulations require much more foundation than mere personal anecdote: They are based on sound theory, vigorous thought, and dialectic *seeking the common good.* And this is an area where men are at least potentially better equipped, and manly leadership is at its acme of political value. (That's not to say we're realizing such potential!) If, in contrast, we followed Alby's advice and adapted to the gender gap, we would be consigning our republic to socialism, since the gender gap tends to vote for the Clintons, Boxers, statist "solutions," welfarism, compassion all according to the emotivism of the moment — fancies in the air — sentimentalism, momism, constructivism, egalitarianism, even progressivism, liberalism, and utilitarianism. So, in contrast to Ms. Alby, I urge that the true course is not to "put more women behind the microphones and in front of the camera," but to rear manly males rigorously instructed in Anglo-Saxon, Indo-European, Anglo-American history and imbued with character, discipline, responsibility, and dedication.

W. Edward Chynoweth
Sanger

Barbara Alby responds:

Mr. Chynoweth's letter sounds like a case study in the gender gap. I watched

(Please turn to page 26)

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SACRAMENTO SPECTATOR

Your *Spectator* was doing the breakfast knosh routine with a half-dozen Capitol wags of assorted outlooks when we heard that Assembly GOP Leader Rod Pacheco was likely being ousted from his post at that very moment as we caffinated ourselves. The question "Who is going to replace him" was immediately asked. *Two* different folks had exactly the same reply: "Who cares as long as he's gone?"

I relate the story not to kick the already down and out, but to illustrate how low Pacheco's stock had fallen in just five short months since his assumption of leadership. Nobody except his inner, inner circle liked him, and he seemed to go out of his way to make sure everyone knew he didn't care.

Abrasive," "curt," "rude," and "mean" are among the printable adjectives I've heard thrown in Pacheco's direction, even by "non-enemies." He had the swagger of the prosecutor he was before coming to the Assembly, but he also treated most of his Caucus as if they were in a D.A.'s interrogation room instead of his peers — much less his allies — in the Legislature.

The act quickly got old, and there is almost universal relief among the Assembly GOP, even among Pacheco's erstwhile allies who understood that, if he wouldn't change, a forcible change was inevitable. Pacheco, it should be said, accepted his fate with aplomb and grace, at least publicly. Had he found either of those qualities earlier in his tenure, his downfall might have been averted. As a side note, Republican Assemblyman Dave Cox of Sacramento continues to be a strong contender for "whiner of the year." He was the only member who disparaged the leadership change in print. And, two days after it occurred, was in new GOP Leader Scott Baugh's office, reportedly yelling for a solid *hour,* not over policy, or staff, or politics — but about the size of his new office. In *his* five short months, Cox's self-seeking seems to have grown to remarkable dimensions, even by Sacramento standards.

In Pacheco's replacement, Orange County's Scott Baugh, the Assembly GOP got far more than a "who cares as long as it's not Pacheco" leader. Baugh's baby-face can beguile folks into forgetting that he has a long background in conservative politics. And his persecution in former Orange County D.A. Mike Capizzi's witch-hunt scared other folks away from him.

Through all of this, however, Baugh maintained his focus, and became "the little engine that could" for the Assembly GOP. Baugh's first step was to revitalize the Caucus staff which had been sinking fast under Pacheco's lash. A key conservative policy analyst who had quit in disgust six weeks ago is now back in the fold. Other changes — all much to the good — appear in the works. Baugh is a solid conservative who manages to be liked personally by his colleagues across the aisle, and, given the numbers he faces, this quality will be especially important. He promises to continue to draw "bright lines" around the GOP legislative program, but will not create the instant animus that seemed to follow Pacheco wherever he went.

Good things should flow from this new leadership, and your *Spectator* promises to sniff out the juicy details — no matter how many saloons, salons, and *soirées* it means he must enter. Stay tuned.

— *A. P. C.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

EDUCATION

Time for *Another* School Choice Initiative?

Before going down that road, it would be wise to review what it takes to win. A well-written measure, good polls, and adequate funding are not enough.

KEVIN TEASLEY

Some Californians want to place a school choice initiative on the March 2000 ballot. Before you go too far down that road, it would be a healthy exercise to review what it takes to win. A well-written measure, good polls, and adequate funding are not enough. In 1993, the last time Californians saw such a ballot measure — Proposition 174 — we *had* a good initiative, polls showing 70 percent support before the campaign started, and a good amount of money to begin the battle. In the end, proponents raised and spent nearly $5 million — and yet lost 70-30. Exit polls showed two-thirds of those voting *against* the initiative *supported* the concept. What happened?

I've spent much time since that loss trying to answer that question and to use the answers I have found to help win future battles. Immediately after the campaign, I helped start the CEO Foundation of Southern California. It provides scholarships to low-income children in South Central LA who want to attend private schools. We served more than 800 the first year, 1994, with 5,000 on the waiting list. This year, the foundation was merged with the new Children's Scholarship Fund started by Ted Forstmann and John Walton.

Beginning late in 1994 (and continuing today), I helped put together a "kitchen cabinet" of school choice supporters from across the country. The idea was to help supporters decide better how to distribute their "school choice campaign" money by helping them review a campaign's strength in terms of its political, grassroots, business, and financial support as well as its campaign plan — *before* contributions are made. Also, these supporters need to know one another. That effort was largely successful and led to victories in Arizona and Minnesota in 1997. While the kitchen cabinet formula is good, more is needed.

Kevin Teasley, former executive director of ExCEL, Prop. 174's sponsor, heads The Greater Educational Opportunities Foundation (www.geofoundation.org), based in Indianapolis.

Last year I founded the Greater Educational Opportunities Foundation, based in Indianapolis, to help build trusting and knowledge-based relationships with inner-city leaders and families — the very people we believe will benefit most from vouchers. The primary lesson of the Proposition 174 defeat, bolstered by my experience since then, is this: in addition to money and a good idea, winning also requires a wide network of people who trust one another and are capable of articulating and delivering our message to those millions who stand to benefit from school choice. This network must work well, communicating quickly and efficiently. But above all, winning requires that we build trust between messenger and audience: relationships must be cultivated with the real world people — especially including inner-city families and leaders — whose interests school choice best serves. How much knowledge do they have about choice? How many hours and how much money will school choice proponents devote to making sure they have a chance to learn the truth about it from sources they trust and to which they will listen? The answers to these questions are at least as important as statewide polls and adequate funding in gauging a voucher's chance of winning.

Proposition 174's defeat is routinely blamed on our being outspent, on a "flawed" initiative, on opposition within suburban communities, on bad campaign strategy, etc., etc. I don't buy any of it, judging from my experience on the campaign and following it. Whatever minor roles such causes may or may not have played, the reason we lost was that we did not do our job right from day one, and that is self-criticism, because I was there from day one. We meant well. Our team was first rate. We had done the research; we knew choice was the right solution to California's educational crisis. It still is. The problem was: *we were the only ones who knew it.* The people we were seeking to help had no clue about choice. We

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FRONT LINE

Union Grassroots Activism

Duane Dichiara

This February in Miami Beach, the leadership of the AFL-CIO made the decision to fund a program that will change the dynamics of politics throughout the United States: Labor 2000. Allocating approximately $45 million, the unions have decided to place chapters on permanent campaign footing, attempting to recreate "machines" in most urban areas nationwide. Some states, deemed key to presidential and congressional campaigns decades into the new millennium, have been targeted for additional organization and funds. One of those states is California.

National union leadership examined the grossly expensive, often ineffective media campaigns their consultants mounted in 1996 and 1998 and were dissatisfied. They concluded that, given increasing voter cynicism towards paid media and the built-in source of manpower inherent in their organizations, credible grassroots campaigns could be created at a more reasonable vote-to-dollar ratio. Currently, the unions in question budget approximately $20 million for the funding of their political accounts. Taking advantage of local chapters' ability to force their members to support union politics, the executive council of the AFL-CIO passed a measure this winter to request affiliate unions to "donate" to the program, in both 1999 and 2000, $1 for each of their 13.7 million members. Combining these sources of income, union officials estimate that in the 1999-2000 cycle they can raise between $40 and $45 million dollars for Labor 2000.

A virtual textbook for union shop organization, *Organizing to Win* (published by Cornell Press in 1998), clearly details the intensive local affiliate commitment in the early 1990s to return to the grassroots politics of their grandfathers. Rather than follow the "member service" models of the last generation, current union local leaders are moving quickly into an organizing model that "emphasizes the need for member mobilization, collective action, and militancy." These programs make organized labor a powerful negotiator in the workplace and a lethal opponent in grassroots advocacy and "Get-Out-The-Vote."

Unions have substantial historical experience in, and a keen understanding of, the mechanics of urban machine building. They also have resources generally not available to Republicans attempting similar programs. In particular, labor has developed an increasingly effective political communication and organization system geared towards mobilizing large numbers of local, educated "volunteers." Workers who become active within the growing programs are rewarded with patronage union positions that offer a combination of additional pay and power.

Labor also continues to endorse and fund local nonpartisan candidates, and manages to do it without creating the divisions within their own ranks that are the basis of the argument against GOP endorsements at this level. In fact, this local activity has served the unions' cause by securing alliances with various local coalitions, placing labor sympathizers on "Republican" staffs, and strengthening the growth of precinct programs.

How should the GOP respond? By re-emphasizing basic Party programs —

(Please turn to page 26)

Duane Dichiara, a land use policy advisor for San Diego County Supervisor Bill Horn, is political director of the Adam Smith Institute.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

brought in Wisconsin Representative Polly Williams to talk about choice. With 20/20 hindsight, I now say *that* should have told us we were in trouble. We had to go all the way to Wisconsin to find an inner-city mom who supported choice and would talk about it.

YES, YOU will see polls suggesting 80 percent of blacks support choice. They just vote it down on election day. Why? Because while inner-city families and leaders know little about the issue and have few contacts with choice supporters, their relationships with people vested in the system are many and deep. How would any of us react if, knowing little about a proposal ourselves, we found more or less all of our friends, family members, and acquaintances opposed it (many of whom work for the schools and ought to know best, right?) *and* we did not know, never met, never even saw the proposals' proponents?

This situation need not prevail. To show how this obstacle can be overcome, I will tell briefly about the work of The Greater Educational Opportunities Foundation. We have a major advantage not available in 1993, when 174 was on California's ballot: a record of school choice success. Milwaukee's program had barely begun and Cleveland's did not even exist. Only two or three privately-funded voucher programs existed in the country, and the dozens of Democrat converts supporting choice weren't there either. Today, we have nine years of school choice under our belt, two publicly-funded voucher programs, 41 privately-funded programs serving 12,141 children (with 45,668 on the waiting list), and two significant state educational tax credit/school choice programs. We also have much more research supporting vouchers and can actually visit voucher schools and talk with the kids, parents, teachers, and principals involved. And we can see that there really is life after vouchers for public schools.

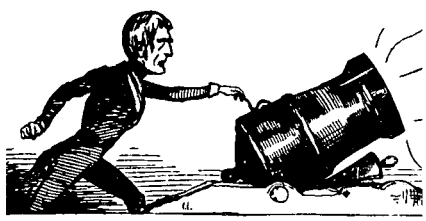
Taking advantage of all this, GEO provides an educational program on school choice for inner-city leaders. We go into communities and help to develop understanding of educational choice from the ground up. It is best to do this kind of work outside of a political-

WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By WILLIAM E. SARACINO

A current mania of Sacramento's gun-phobics is a "one a month" plan. The Constitution notwithstanding, they would limit your right to purchase a gun to one monthly. As with most liberal drivel, this might sound superficially reasonable: one gun a month is more than plenty — most of the time. But listen up class, the answer is easy: as long as these gun buyers break no law (99.99 percent of them don't) *it's nobody's business but theirs.* Or shall we apply this new approach to the *whole* Bill of Rights? In the computer age, who needs to publish a newspaper more than weekly? Who but rank criminals need invoke a right against self-incrimination more than monthly? And is freedom from unreasonable search and seizure a more than once-a-decade, let alone a monthly, need? Go ahead down this stairway; the possible efficiencies are limitless.

As to who needs to buy more than one gun a month, consider a circumstance that friends of mine actually experienced. Say a Southern California jury returns a verdict some of Maxine Waters' more "insurrection-minded" constituents (as she put it) don't like. Suppose further they decide to stage another "rebellion" (again, Mrs. Waters' word), burning and looting freely, and you own a business in their path, maybe a home too. You own no firearms, but decide it might be wise to start your collection now: one to protect your business, one for home, one to protect your wife, and one to protect your 20-year-old daughter. Mrs. Waters' insurrectionists don't mind "one gun a month" laws, having looted hundreds of guns from stores they have burned. But you? It's just too damn bad about you and your family. For your own good, you must purchase no more than one gun in any given month. "If it saves even one life" ..... you see? Recall that as you sift through the rubble of your business or man the barricades with your neighbors.



When you encounter one of our gun-phobics, ask them about this scenario. Have a comfortable chair nearby, as the answer might be a long time coming. CPR

William E. Saracino is executive director of Gunowners of California.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LEGISLATIVE FILE

Strategic defense experts wrestle with a "doomsday scenario" in which an enemy fires at the United States a vast barrage of missiles, each capable of carrying multiple warheads. No more than 10 percent, say, are actually armed, but how do we tell which are "live"? And, alternatively, how can we stop thousands of incoming projectiles? California may provide some answers in its response to the Sacramento Democrats' "doomsday" assault consisting, like a mass Soviet rocket attack, of seemingly thousands of malicious bills now cascading down upon us. Herewith, some of the worst:

Education: To show we're not really yet ready to declare doomsday, we begin with one deadly dart that *was* knocked down: **AB 804** (Keeley, D-Santa Cruz), which tireless home schoolers blew out of the water. This bill would have permitted juvenile court to remove from parents' homes children aged 6 to 18 judged to be "suffering educational neglect" as a result of being home-schooled. The Home School Legal Defense Association led opposition to 804, saying it would enable "angry neighbors, disgruntled in-laws, and ex-spouses ... to report a home schooling family to CPS [Child Protective Services] simply for not sending their children to public school." Assemblyman Keeley dropped the bill, retreating before a late-April torrent of opposition letters, phone calls, and FAXes from around the state. Home schoolers emerged as a new, potentially powerful political force in the state.

On a less happy front, **AB 842** (Migden, D-San Francisco), passed by the Assembly Education Committee,

would make charter schools the only public campuses in California required to have union contracts.

The *Los Angeles Daily News* called 842 "an outrageous abuse of power." One Capitol education expert said it would force charter schools "to employ teachers on the basis of seniority, to grant tenure, to use the district salary schedule instead of compensating faculty on the basis of skill or performance." Curriculum would conform to "the union contract."

AB 222 (Kuehl, D-Santa Monica) could prohibit schools not banning discrimination based on "sexual orientation" from participating in any state-funded program. Pacific Justice Institute said 222 "would ban private religious schools" from "public school athletic leagues .... [S]tudents wanting to attend most religious colleges would not be eligible to receive Cal Grants."

Second Amendment Democrat search-out-and-destroy-your-self-defense-rights legislation was covered in this space last issue. Here are some **GOP** firearm self-defense bills Democrats can be relied upon to kill: **SB 778** (Haynes-R, Riverside), providing that if a judge finds that a firearm was used in a lawful defense of one's self or another it must be allowed into evidence as an affirmative defense against the crime of carrying a handgun concealed without a permit. **SB 547** (Lewis-R, Orange) would authorize issuance of concealed carry permits to persons protected by a restraining order.

And a Democrat bill, **AB 1040** (Wright, D-Los Angeles), would require concealed carry permits be issued for persons meeting state guidelines who are retailers or business owners who transport money or are victims of specified crimes including sexual assault, stalking, and domestic violence. **CPR**

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ly-charged campaign environment, when battle lines have not been drawn and people are willing to listen. Also, we don't begin by asking people to support choice. Rather, we ask them to listen to the arguments. Last summer, we began a series of educational choice forums with key experts from across the country: Democrat Representative Dwight Evans of Pennsylvania; Mrs. Bert Holt, director of Ohio's voucher program in Cleveland; John Brandl, dean of the University of Minnesota's School of Public Affairs; Dr. Howard Fuller, former superintendent of Milwaukee's public schools; Indiana University's Dr. Kim Metcalf, and Harvard University's Dr. Paul Peterson. Evans, Holt, and Fuller are black. Brandl describes himself as a "liberal Democrat." Peterson is a Democrat and Metcalf is a researcher whose work is often quoted by teachers unions. Yes, it is true, while recruiting top experts, we also try to feature speakers whose backgrounds and varied viewpoints help breakdown stereotyped images of school choice supporters, speakers who show vouchers' broad base of popularity among people who know the benefits that school choice bestows. These forums give us an opportunity to break bread with community leaders and to learn together about an important issue.

GEO formed an alliance with various community leaders and organizations to co-sponsor these forums, spreading the credit and building participation. As an alliance, we also sponsor statewide educational radio ads and mailings on how Minnesota, Wisconsin, and Ohio are helping families receive quality education through choice. In addition, GEO sponsors fact-finding trips to Milwaukee for leaders to visit the schools, teachers, principals, students, and parents there. Now we can also visit Cleveland. No longer relying on a book or an article about choice, we see for ourselves.

Our activities are working. Here in Indiana, when Governor O'Bannon proposed a program we believed threatened the open, thriving kindergarten services that inner-city leaders had established and were running largely free of heavy-handed state control, we communicated with our friends in the inner city. Then *they* led the battle against O'Bannon's plan. Because they already knew us, and knew the benefits of choice, there was no struggle to put together press conferences or rallies. It happened naturally, led by the inner-city leaders, not us. And this approach, which costs far less than launching a campaign of our own, is more effective.

A FURTHER LESSON: winning is not the end of your involvement. Once you win a campaign, you need to defend your victory. All activities designed to build the support network to win should also be guided by the need to defend the victory later. A victory won because a whole community worked for it, not just one or two people, can and will be defended.

Californians should go through this exercise before launching another initiative. Superficial relationships and academic arguments that don't touch peoples' hearts won't make it. Consultants will get rich, but supporters will be out a lot of cash that could be spent more wisely. This is bad for the supporters and worse for the movement. School choice is a noble cause. It demands that we all fight smart and that we be patient. For most people, school choice represents a dramatic change in the status quo. It scares them; they need time to learn that such fears are not justified, that it works, and that it benefits all children and all schools. CPR

THE WORKING PRESS

A Crack in the Prison Walls

As Memories of Jerry's Judges Fade, So Does Blind Faith in Prosecutors

TIM W. FERGUSON

GRADUALLY, BUT steadily, the prison walls are cracking — the walls of solid support on the right for throwing every lowlife into a penitentiary and turning off the lights. If you do that with each dissolute character in the society — regardless of whether he poses a physical threat to someone else — you're going to have so many people behind bars, and so many people tending to those behind bars, that you reach a tipping point for a free society. And if you put blind trust in police and prosecutors to identify and incarcerate the offenders, you forfeit the free society altogether.

Tim W. Ferguson is California Political Review's *press critic.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

During the 1970s and especially the Jerry's Judges era, so many dangerous felons were sprung (or never nabbed) that a backlash built up culminating, years later, in the Three Strikes initiative. Added to the inordinately harsh penalties that grew out of the "drug war," this push surely had its effect, especially in California. Prisons bulged. With Pete Wilson and Dan Lungren leading the charge, very few Republicans sounded a dissent. Now that is beginning to change.

A critical break came on the editorial pages of the *Wall Street Journal,* drug war central. There, John DiIulio, the Princeton professor who has been the academic underpinning for much of the crackdown on criminals, wrote that maybe we were tossing too many marginal narcotics offenders into Alcatraz and maybe the problem (if it *is* society's problem, one might add) should be treated in the way other passively antisocial acts are, through organized treatment. Well, now! In the Capitol, reconsideration of Three Strikes was beginning to be heard, and the *Bee's* Dan Walters was quick with a column. The *Orange County Register's* editorial page, which resisted more than most the long siren call to "lock 'em up" — and of course has always spurned the drug war — was saluting Assemblymen Scott Baugh's and Tom McClintock's efforts alongside liberal Democrats to put a collar on incipient authoritarianism. Baugh knows first hand of latter-day Inspectors Javert.

At the same time, a left-of-center writer and accomplished digger, Edward Humes, published a book, *Mean Justice,* that takes aim specifically at the Kern County prosecutor's office. Humes maintains that DA Ed Jagels, a friend to several conservative politicos, has been cutting corners to put folks in jail. Not all those folks, Humes suggests, are guilty. By March, the *LA Times* had picked up on the story. If there's truth to that indictment of Bakersfield, perhaps what goes on there is not so isolated. Indeed, it was there that some of the earliest manipulations of the child-molestation statutes evidently took place, with children coached into alleging horrible acts by adults against whom little other evidence existed. This sort of case, which also before long included the notorious McMartin Pre-School charges in Manhattan Beach, spread around the country until, in just the last year or two, the tide was turned. It was turned by appellate courts whose spine was stiffened by brave reporting on prosecutorial abuse by none other than the *Wall Street Journal* editorial page, in the person of Dorothy Rabinowitz.

The conservative and classical liberal traditions share an appreciation for the flaws in human character and the simple capacity of humans (that includes police and prosecutors) to err. That is why they historically have joined to restrain the reach of government. The working press is likely to find further grist for stories about the right's rethinking of its romance with Javerts and jailers.

* * *

Now that a runoff election looms to decide whether Los Angeles Mayor Richard Riordan and his "reform" slate succeed in winning a clean sweep of a majority of seats on the city school board, the press, too, will be put to another test. Riordan's victory in the first round — winning three seats outright, two of them entailing the defeat of union-backed incumbents in an off-year election — was extraordinary. The $2 million effort, backed by a phalanx of top local business people, marked the first time in his six years in office that Riordan ("tough enough to turn LA around," you may recall from his 1993 campaign) had moved to tear out the city's impossible political establishment by the roots. As mayor, he has no nominal authority over the schools, but the huge LA district, run by educational faddists and unionists and producing atrocious results, continues to be one of the area's biggest economic drags. So now Riordan is one seat away from being able to force change — a seat held by a black race hustler who ran just behind another black in the primary.

Riordan's slate managed to win endorsements of all four daily and weekly papers in the city — an incredible feat in itself. But, the *Los Angeles Times* still managed to show a glaring ineptitude. Its (scant) news coverage described the campaign as "highly charged," but not one of the paper's local columnists managed to write a word about it. With George Skelton limited to state affairs and Bill Boyarsky now a full-time editor, the nation's third largest newspaper is denuded of the sort of voice on local affairs that you would expect of the *Podunk Herald.* Instead, it has the clownish Mike Downey and a roster of "slice of life" commentators who seem incapable of addressing a contentious issue. Forget the question of ideological bias — and here it must be said that the paper's new conservative cartoonist, Michael Ramirez, is regularly blah as well — the paper is just too often irrelevant.

* * *

The *Times* does have a new columnist, Agustin Gurza, hired from the *Orange County Register.* At both places, he appears devoted to writing about "Latino" issues. (One early column examined "The Political Lessons to Be Learned in [Latin] Dance Class" — which were: that Assemblyman Lou Correa could be true to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

his ethnic Catholic roots and still support gay rights!) Is this how the *Times* sees its approach to public affairs punditry, giving important groups "their" voice? Will the right ever have its voice, anywhere but on the op-ed page?

♣ ♣ ♣

When the California Teachers Association struck back against charter schools with its closed-shop bill, only the *Los Angeles Daily News* accorded coverage to the important early committee action in the Legislature. This alone — forget the ongoing role of the *Daily News* in giving voice to the San Fernando Valley push for secession from downtown — demonstrates the importance of a competing newspaper on the *Times's* home turf. But where were the other Sacramento bureaus?

♣ ♣ ♣

Everyone from the *Wall Street Journal's* editorialists to Peter Schrag of the *Bee* is praising the University of California's new affirmative-action procedures in admissions. Essentially, they keep a "diversity" or compensation factor for "under-represented" minorities, but subsume it in an "other-factors" evaluation category that includes other elements of distinction or adversity in a candidate's background. This has led to an uptick in the acceptances of the affected minorities (presumably the new guideline for taking four percent of every high school's class will have a similar effect). But the numbers remain below what they were when skin color ranked right up with grades and test scores. This leaves the doctrinaire left (including the staff of the politically correct UCLA *Daily Bruin)* unhappy. The question is where the critical mass of Californians who passed Proposition 209 will come down. Is a lesser degree of preference okay? What do the new standards mean when there's only one spot left and there's a middle-class black and a working-class Croation-American with the same GPA, etc.? The press portrays Ward Connerly as content with the new order. Will it pose such a question to him?

♣ ♣ ♣

A reporter (or editor) on a mission is always in need of finding the sound bite that will support a premise. Maybe that's what happened when the *Orange County Register* published a sidebar to its (fair and square) Page One account of Scott Baugh's accession to Assembly GOP leader. The predictable take of the companion piece was that the ouster of Rod Pacheco would cause more problems for Republicans with Hispanics. The writer — or at least the reader — was having a hard time finding much substantiation for that notion until coming upon a quote from *Bob* Pacheco, an unrelated GOP assemblyman. "The perception could be that we're turning our back on the Latino community," he offered, after observing that "the message and the perception could become the reality." With your help, it will, Bob.

♣ ♣ ♣

Does the projected gush of applicants for California's public colleges coming down the population pipeline mean the state should undertake a crash building program, like in the early 1960s? That's traditional thinking, but Dan Walters wondered about alternatives, while questioning the $400 million likely to be spent on an already approved UC campus at Merced. That kind of commitment, he suggested, would drain funds that might be spread out elsewhere, perhaps in a distance-learning (television, Internet) program that could reach the multitudes likely to be knocking on higher ed's door. Or — and here he is really getting out of the box — enrollment could be capped and applicants would have to compete fiercely for entry, much as they now must do for the select campuses. Walters wasn't endorsing that — although this columnist would — but merely to have the issue raised in syndicated *Bee* commentary that gets picked up in even bigger papers in San Jose, Orange County, and San Diego is to invite wider debate.

As the *LA Times* pointed out, the on-line university concept is drawing more vociferous opposition from faculty groups. As has been noted in these pages, some of the jazzy notions of slippery administrators — particularly at the CSU — need to be viewed with skepticism. Doubtless, too, there is a case for in-classroom teaching, but somehow the professorate must deal with its limited productivity gains in an economy where most sectors are leaping ahead.

♣ ♣ ♣

Leon Panetta seems to have dropped out of the electoral wars and the reason must be his lucrative life as a lobbyist and all-around political fixer. Slowly that image is emerging in the press, to replace that of the good-government liberal that he fostered during his time in public offices. Lately he showed up in articles by both alternative Los Angeles weeklies on the FEMA backstopping of a company whose faulty welding work apparently was responsible for much of the major structural damage suffered in the 1994 Northridge earthquake. The company's man in Washington: Panetta. CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Misdirected Sweating Over Sweatshops

The world is not made less hard by closing off employment alternatives

WILLIAM R. ALLEN

EVEN GENUINE compassion is not likely to make a big dent in the ills and agonies of a hard and stingy world. Indeed, schemes to do good commonly do harm to the targeted beneficiaries. But the scheming can help the schemers — providing them administrative power or heroic reputation or protection from competition — and the program failures of today provide bigger problems to attack tomorrow with still more massive resources and even more copious commiseration and officiousness.

Revulsion and indignation — real as well as affected — come easily in contemplation of "sweatshops." Understandably, sweatshops have a bad name. No person of gentility could rejoice over extraordinarily long hours of hard work in bad circumstances for low pay. So we do good: Through government, we set maximum limits on hours, minimums on pay, and mandate acceptable working conditions.

By doing so, what good have we done? Politicians have posed as benefactors of the downtrodden. Bureaucrats have enlarged their bureaucracies. Labor union members will now have less job competition. Major manufacturers can find some solace in the inducement of greater mechanization and perhaps state-assisted cartelization.

But what of those who were supposed to be helped — the long-working, low-paid workers? Consider testimony from two eminent economists.

Milton Friedman speaks of the migration to this country in the late 19th century — a great movement of people attracted, not by "enlightened social legislation," but by market opportunities:

> ... millions of penniless immigrants came in from abroad, with nothing but their hands .... My mother came to this country when she was fourteen years old. She worked in a sweatshop as a seamstress, and it was only because there *was* a sweatshop in which she could get a job that she was able to come to the United States. But she didn't stay in the sweatshop, and neither did most of the others. It was a way station for them, and a far better one than anything available to them in the old country.

Thomas Sowell has reviewed the history of such immigrants — mostly Jewish — with the sweatshop owners themselves making little profit and with the workers saving a large proportion of their small incomes:

> ... despite the sinister innuendoes and indignant language ... standard in describing this situation, the actual evidence suggests nothing more than employers and employees making the most of such limited options as they had, given the technology, skill, and wealth at their disposal. Government added to none of these three requisites, but only reduced their ability to optimize according to their own knowledge and preferences. In view of the later economic progress of Jews, it is by no means clear that their understanding of their situation was not at least as good as that of the reformers, who tried vainly to stop them from doing what they felt they had to do.

WE MAY find a touch of irony in the recent formation of the Los Angeles Jewish Commission to investigate the large Southern California apparel manufacturing industry. Not only is there the century-old association of Jewish immigration with the garment industry, but most of the largest California manufacturers are Jewish-owned — although most of the employees of the area are immigrants from Latin America.

It clearly *is* a hard world of unequal opportunities. But poor people are not invariably lacking in sense and shrewdness. They are not utterly irrational in accepting sweatshop employment: They are taking the best jobs available. The world is not made less hard by eliminating market options of people, by closing off employment alternatives and reducing the already limited ways in which the disadvantaged can compete. CPR

William R. Allen, with the authority imputed to him by his membership in the UCLA department of economics, urges the widest marketplace possibilities in selling one's productivity.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Sacramento Eyes a Robust Economy

How Pete Wilson's 'fiscal conservatism' helped old-time Democrat liberalism revive and restore The Era of Big Government

by Ray Haynes

CONSERVATIVES WON the intellectual war against socialism, right? And now we all agree that big government is bad, that prosperity comes with low taxes, reduced regulation, less bureaucracy, and free markets, that a rising tide raises all boats, that a government big enough to give us everything we need is big enough to take everything we have, that, as even Bill Clinton acknowledges, "the era of big government is over." We have all heard that, right? And, given this happy condition, all wise Republicans know (and act accordingly) that the Grand Old Party need only press for limited government and "fiscal conservatism" to sweep from victory to victory. All correct, surely? Well, no — all wrong as a matter of fact, particularly in California. At the risk of sounding like a "pessimistic" conservative, I must say the truth is not only that state government remains firmly fixed on a fatter-growing, ever more bloated, and showing no signs of a turnaround path, but that the blame rests only partly with Democrats. It may comport poorly with our GOP Happy Face; but my subject is the state budget, and it is impossible to make sense of the current situa-

Ray Haynes, who represents California's 36th state Senate District (Riverside), is a GOP member of the Senate Budget and Fiscal Review Committee and serves as Republican Whip.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion without mentioning one unpleasant point: throughout the 1990s, California Republicans — led by Pete Wilson — often worked as hard as Democrats to keep government growing, taking more of our money, diminishing our freedom, and making more of us more dependent upon the state.

It's The Spending, Stupid

By the time this article is published, spending by California's government will be higher even than I predict a little further on. How can this be, you may ask: doesn't the Legislature have access to the best experts? Don't I, as a California legislator, have accurate information upon which to base spending predictions? The answers are: yes — we have some of the best experts — and no, we don't have accurate information. The reason: during the last three years, revenues to the state of California have significantly exceeded all expectations and, true to form (although belying the conventional wisdom about socialism's demise), the Legislature has spent these surpluses on more government.

In 1993, general fund spending was $39 billion. Today, it is $61 billion: a 62 percent increase in six years.

AS I MENTIONED above, this unfortunate habit of more or less automatically spending every dollar that appears was well established in the Wilson Administration. In 1993, total state general fund spending was $39 billion. Today, it is $61 billion: a 62 percent increase in 6 years with no serious Wilson-led effort to use this windfall to fulfill the GOP's fiscal conservative mandate by cutting taxes. As a result, the glut of tax dollars flowing to the state Treasury is truly embarrassing.

In November 1997, state forecasters estimated that California would have $57 billion to spend in the upcoming fiscal year, predicting that that would be enough. But in January 1999, a bare 13 months later, the Davis Administration *increased* total revenue predictions for the same fiscal year to $60.5 billion — and promptly pronounced this total to be *$1 billion short* of the state's "needs" for the year. Something's out of whack: state government bureaucracy and the schools are the two major beneficiaries of this enormous general fund growth. Are they 62 percent better today than they were six years ago? If not, why not? What is the core problem? Answering these questions raises three subjects: (1) state spending trends; (2) increases in the number of state employees; and (3) the issue most likely to explode state spending during the next decade, the Healthy Families Program. Although Republicans are as guilty as Democrats in the creation of our current budget crisis, as one who has never voted for a state budget, I am casting the first stone.

Soaring Budgets

His public rhetoric to the contrary notwithstanding, Pete Wilson's budgets offered fiscal conservatives little consolation. However, while Wilson showed no restraint beyond achieving a "balanced budget" during a period of soaring tax revenues, Governor Gray Davis's budget appears to ignore even these mild restraints. A key lesson of the '90s is that spending growth never satisfies. On the contrary, the more the state spends, the more ravenous its appetite for dollars becomes. For instance:

- According to a November 1996 report of the Legislative Analyst's Office [LAO], spending for FY 1995-96 (a mere three years ago) totaled $45.7 billion. Governor Davis's projected $61 billion FY 1999-2000 spending thus represents a *33 percent increase* in four short years.
- In that same 1996 report, LAO projected $54.9 billion in state spending in FY 1998-99. But just two years later, in November 1998, LAO reported 1998-99 spending of $58.9 billion. Do you begin to understand why I have little faith that today's state spending predictions will last even until you read this article?
- Just 14 short months ago — in November 1997 — LAO projected FY 1999-2000 spending of $58.9 billion, but upped that to $61 billion last November, which, alongside LAO's $60 billion revenue projection, suddenly created Gray Davis's $1 billion def-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

icit where a $1.1 billion *surplus* had been expected under LAO's own spending projections of just one year earlier. This "deficit," that is, clearly resulted from steeply-rising spending generated by rising tax revenues. So, of course, Davis blamed this deficit on tax *cuts* during 1997 and 1998, showing how little conventional Sacramento budgeting wisdom has to do with reality.

HERE'S THE truth about those tax cuts: from FY 1993-94 to the present, state revenues increased 50 percent — from $39 billion to $58 billion. Half of that increase came between 1996 and 1999, when state revenues in California increased $10 billion. These ballooning revenues appeared alongside a 1997 $200 million business tax cut and a 1998 $1.3 *billion* car tax cut. Obviously, the tax cuts did not create a revenue problem. In fact, at current rates of growth, the FY 2000-01 car tax cut could be implemented and the state would *still* have more money than the Legislature thought it would have when it passed the car tax cut. This phenomenon is sometimes called "supply side economics," but Gray Davis would violate Democrat political correctness to point out how well it is working in California. No one in state government will starve if we give the people some tax relief.

For the Legislature, the governor, and the bureaucracy, the 'decade of greed' has been the 1990s.

In 1991, the California Legislature and Governor Wilson declared an emergency and raised taxes $7.5 billion. Total state revenue that year was $35 billion. Since then, state spending has increased $23 billion, and only $1.5 billion has been returned to the taxpayers. What does this prove?

(1) That any "revenue short-fall" problems result from a spending spree that would make a drunken sailor blush: a 50 percent spending increase in seven short years is not driven by caseload growth or any rationally-defensible idea of "need." It can only be described as embarrassing. For the Legislature, the governor, and the bureaucracy, the "decade of greed" has been the 1990s. They must change their spendthrift ways.

(2) The methods used in the state's woefully undependable budget reporting are largely worthless and should be thrown out. For one thing, they are notoriously blind to history, giving us conclusions not warranted by even cursory historical research. Legislators rarely have time to do this research themselves, and so undependable, incomplete reporting leads them to make bad policy.

An Explosion Of State Employees

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.
— The Declaration of Independence

If Thomas Jefferson could see us now — King George had nothing on Sacramento. The king's "swarms of officers" would barely be noticed by today's standards: an intrusion of a government that occupied less than one percent of the economy. But what have we now? Since 1958, within my lifetime, the number of state employees has nearly tripled, but government has become less effective. Total state expenditures in 1958 were $6 billion, and with budgets like that we built more freeways, more schools, the entire state water project, including the canal and all the dams, and most of our prisons. From 1958 to 1966, state employee numbers increased from 98,000 to 158,000. By 1978, total state expenditures were still only $21 billion. In other words, we built all that infrastructure with 100,000 to 150,000 fewer state employees than we have today and budgets one-third to one-*tenth* the size of this year's bloated spending proposal. In 1990, when Wilson took office, the number of state employees had jumped to 260,622, and has continued to grow. By 1998, the number had increased to 264,551; by June 2000 it is expected to be *282,000.* As you can see, again party affiliation made little difference. While state bureaucracy exploded under Democrats (increasing by 60,000 employees under Pat Brown and 30,000 under Jerry Brown), the tax increases to pay

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for those explosions occurred under Ronald Reagan and Pete Wilson. *State government spending saw its fastest growth under Wilson.* So: compared to the '60s, we have six times the money and double the employees and can't afford to build a school, prison, or freeway without borrowing the money. "Swarms of officers ... eating out our substance" and giving us nothing in return.

Governor Davis has already increased spending 6 to 8 percent over the limits that earlier budgets set for FY 1999-2000. He expects a 400 percent increase in state employees over the 1990-98 numbers in just one year, projecting an additional 15,000 in FY 1998-99. He is doing this, first, by reversing many of Wilson's privatization moves, second, by expanding existing government programs to require the hiring of more state employees. This trend, if continued, will create great pressure for tax increases to maintain "essential" services. No one will mention that five years ago Californians were living quite well without these services now deemed to be "essential."

Healthy Families Program: California's Socialized Medicine

One of Pete Wilson's great mistakes was the so-called "Healthy Families" program, intended to provide government-subsidized, government-controlled health care insurance to children not covered by either private health insurance or Medi-Cal. Like most government subsidies, it sounds good (and inexpensive) initially, but soon becomes a boondoggle as bureaucrats and left wing politicians expand its scope beyond all recognition. Medi-Cal covers uninsured children whose parents earn 100 percent of poverty and below. Originally, Healthy Families was to cover those between 100 and 200 percent of the poverty level. People earning more than 200 percent are presumably covered by private insurance (or at least could be). Those between 100 and 200 percent, who earn between $16,000 and $32,000, would get a private health plan for their children with state-subsidized premiums, the size of the subsidy determined by income, to a maximum of $27 per month. The coverage would, of course, be "bare bones," with government determining which benefits the policy would pay.

THE SCOPE of all government-financed health care is determined by two basic variables: (1) who qualifies for the program (eligibility), and (2) what services are covered (benefits). Costs explode if government expands either eligibility or benefits. Eligibility expansion increases the number of people who get the benefits. Benefits expansion increases the number of health care providers who get paid for providing service. This dynamic establishes *two* new special interest groups directly competing with the general interests of taxpayers: first, of course, people receiving either benefits or business under the existing program and, second — less often noticed — the group of *potential* recipients, just over the qualifying line who, with only small revisions of the program, stand to join the party. As soon as a new program is created, the race begins to increase the flow of tax dollars to both groups. So it is going with the Healthy Families programs. Bills that would vastly expand this program are racing through the Legislature. Here are some current proposals:

(1) Expand eligibility to people earning 250 percent of the poverty level. Of course, 250 percent of poverty is a little more than $41,000 per year. With California's median income being $39,000 per year, that means more than half of California's "children" could be eligible for the program.

(2) Some believe that covering children isn't enough — so they have proposed covering their parents as well, making more than half of California's parents also potentially eligible.

(3) Why limit it to 250 percent of poverty? Proposed "income deductions" would

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

eliminate various kinds of income, in effect redefining eligible groups to include those earning 288 percent of the poverty level ($48,000 per year: have we passed boondoggle stage yet?). Add to these figures the push by all types of health care providers to get their service added to the "bare bones" coverage, and we find a program, less than two years old, rapidly growing out of control. Our state government bureaucrats and left wing politicians are unconcerned because the federal government is picking up two-thirds of the costs. So the expansion is paid for mostly by federal dollars. Of course, Californians pay federal taxes as well as state taxes, so this circumstance is no consolation to them. As always oblivious to taxpayers' interests, the left wing politicos and bureaucrats instead worry that too few people know about "Healthy Families," and so are spending another $21 million of other peoples' money for television, newspaper, and other forms of advertising to help pump more people into the government-dependent pipeline. Twenty-one million of *your* tax dollars are being spent by government to build political pressure for spending *more* of your tax dollars, yet no one in the Legislature laughs at the absurdity of the idea.

And there's more: bureaucrats are actively hiding the program's true cost. The functionaries at the "Managed Risk Medical Insurance Board" (the state entity that oversees the program) see great bureaucratic empires being built. Some doctors see lots of dollars to seize. Left wing politicians see socialized medicine, at long last, snuck in under the nose of an unsuspecting public. Clinton-Care, so soundly rejected by the people in 1993 and 1994, is coming — like a tax thief in the night. People may wake up one day to find that this program with the pretty name has destroyed our health care system. It is a lesson in why high-sounding government programs should never be started in the first place.

Conclusion

Some lessons to be learned from this survey of state spending, state employees, and Healthy Families:

• Republicans betray their constituents' trust when they act as accomplices in enacting high-sounding and quickly out-of-control socialist programs. Gray Davis, quite honestly, can say Republicans launched much of the current vast state government expansion. Democrats can now expand Healthy Families and other programs without apology, Republicans having provided them ample cover. *Even* the GOP called it a "good idea," they can say; we're just making it better by funding it properly. The losers in all this — the taxpayers — are Republicans' true constituents. When those they rely upon to defend their interests instead betray them, they lose their reason to vote Republican, and such electoral disasters as we've recently seen, of course, result. Can anyone be surprised when Republican voters abandon Republican politicians who were elected to office precisely to stand for "fiscal conservatism" and who instead repeatedly either refuse to push tax relief or actively promote out-of-control government? From 1991, when some Republicans actively pressed tax increases, to 1998, when those same Republicans refused to enact the full car tax cut, Republicans sowed the seeds of electoral disaster while aiding and abetting the budgetary mess we are in today. A 62 percent increase in spending, a refusal to reduce state employees, votes accommodating a $9 billion school bond, fee increases, program expansions, "good government" programs now left to the Democrats to expand. In 1996 and 1998, voters showed they can see what many Republican office holders apparently cannot: that Republican rhetoric is *only* rhetoric.

What Should Republicans Do?

• Cut taxes — cut them early — cut them often. Cut them at every turn, with every device possible. Amendments, initiatives, bills, actions — constantly and pervasively. The last $1.5 billion in tax cuts hurt *no* state program, on the contrary, state spending increased more than anticipated. Ordinary Californians were forced to bail out the state when times were hard. It is only fair that they share the surpluses of the last four years.

• Oppose program expansions. There is always a good excuse for bigger government. As the last 30 years have proven, high sounding programs are only excuses for more taxes, more spending, more bureaucrats. Government grows less efficient, and more ravenous, the more money it gets. You lose.

• Grow a backbone. Republicans must be willing to take criticism, abuse, and controversy, and turn it, as Reagan showed us how to do, into a force for more freedom and less government. Otherwise, we will deserve the minority status we have thus far earned. CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

WASHINGTON LETTER

by Leon E. McKinney

California Congressional Delegation Report

Clinton abets Red China espionage

White House/Democrats ignore evidence of missile technology transfers; punish whistle-blowers; stall release of Cox Committee report.

According to his obnoxious attack dog **Sidney Blumenthal,** President **Bill Clinton** complained during the **Monica Lewinsky** investigation that he felt like the fictional character **Rubashov** in **Arthur Koestler's** anti-communist novel Darkness at Noon. Actually, after observing the unfolding **China** treason scandal, I'd say Bill Clinton has more in common with **Karla,** the Soviet master-spy in **John Le Carre's** Tinker, Tailor, Soldier, Spy.

In the past two columns, your correspondent has described evidence that the biggest individual contributor to **Clinton/Gore** and the Democrats, **Bernard Schwartz**, head of the New York-based aerospace company **Loral**, allowed China's military to obtain U.S. launch vehicle and satellite technology that improved the payload capability, range, and accuracy of Chinese nuclear missiles. When the **Justice Department's** investigations of Loral got a little too hot, Clinton quickly issued a satellite launch waiver allowing Schwartz to do legally what DOJ was about to put him in jail for: assisting Chinese engineers in upgrading their launch vehicles' capabilities by "inadvertently" giving China sensitive U.S. technology.

Since that close call, it appears Clinton told Attorney General **Janet Reno** to stop anyone at DOJ from asking awkward questions about China. **Charles LaBella**, who left his post as interim U.S. Attorney in San Diego after being hand-picked by Reno to head up DOJ's investigation into the connection between Clinton/Gore and the Chinese, refused to be a good boy and whitewash King Bill, so Reno stiffed him and buried his report. Then Reno stood by in stony silence when Senator **Barbara Boxer** replaced LaBella with one of her minions in his former U.S. Attorney slot rather than letting him return to it.

Well, there's been a lot more going on than just covering up Clinton's and the Democrats' venality and contempt for election laws and Schwartz's anything-for-a-buck willingness to endanger his country. As published reports have thoroughly documented, the Chinese had spies inside the extremely sensitive U.S. **Department of Energy Laboratory at Los Alamos** since at least 1985. This is apparently the source of design information the Chinese obtained on our **W-88 nuclear warhead**, which government officials call America's most advanced. Very small but very powerful, the W-88 enhances U.S. capability to put multiple re-entry vehicles (RVs), each with one nuclear warhead, on top of a nuclear missile's post-boost vehicle (PBV). The Chinese have used W-88 technology to enhance the "throw-weight" of their existing missiles, increasing the number of warheads and the range of missiles already in production and improving the deadliness of their new missiles currently being developed.

This bad news first became public in early March, thanks to the indefatigable **New York Times** re-

---

California Political Review *Contributing Editor Leon E. McKinney is an engineering consultant in St. Louis, Missouri.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

porters, **Jeff Gerth** and **James Risen**, who dug this story up with old-fashioned gum-shoe work. Vice President **Al Gore** took a break from inventing the Internet to say that this all happened long ago in a galaxy far away, under the evil empire of **Ronald Reagan**. But in early 1995, top nuclear weapons experts at Los Alamos decided that, based on recent Chinese underground nuclear tests, China had a nuclear warhead similar to the W-88. By February 1996, five possible suspects in the apparent theft of W-88 data had been tagged. On March 27, 1996, DOE received **FBI** information indicating the Chinese had apparently also stolen top-secret **neutron bomb** data from Los Alamos. Around this time, DOE Director of Intelligence **Notra Trulock** traveled to **CIA** headquarters and briefed CIA's head of counterintelligence and the man who uncovered **Aldrich Ames**, **Paul Redmond**, who said "This is going to be just as bad as the **Rosenbergs**" and "This was far more damaging to the national security than Aldrich Ames."

On April 13, 1996, Trulock met with **Sandy Berger**, then President Clinton's deputy national security adviser, and briefed him on the theft of the W-88 design, the need to increase security at the weapons laboratories, and the report about the loss of neutron bomb data. You might think this would become an urgent matter. Not so. The FBI started a criminal investigation in June, but made no progress the rest of 1996. After **Frederico Pena** became DOE Secretary in early 1997, a previously approved counterintelligence program was quietly placed on the back burner, and an April 1997 classified FBI report that recommended upgrades to DOE lab security was ignored for 17 months.

Also in April 1997, Trulock discovered new evidence that the Chinese had other, active spies at the DOE labs and tried to meet with Pena, but **Victor Reis**, assistant energy secretary for Defense Programs, and **Kenneth Baker**, the department's acting director of nonproliferation, prevented him from doing so until the following July. After finally meeting with Trulock, Pena sent him back to Sandy Berger, now national security adviser. Trulock laid all the cards out on the table: China had full access to U.S. nuclear weapons designs and there were Chinese espionage operations going on at that very moment inside the weapons labs. Berger claims he "immediately" briefed Bill Clinton.

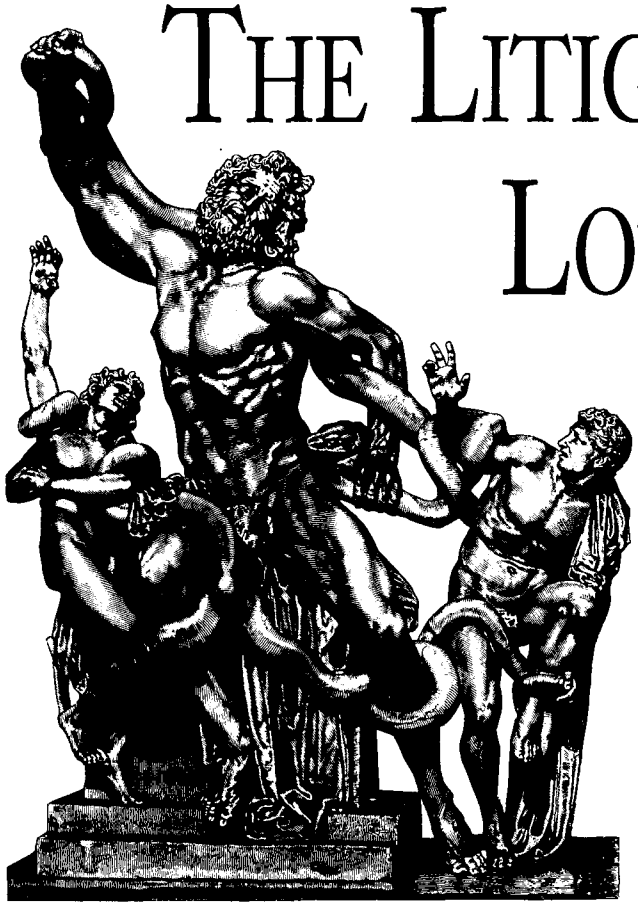
During that time, Senator **Fred Thompson's** hearings on Clinton/Gore's and the Democrats' Asian connections were sabotaged by **John Glenn** (reward: one space shuttle ride). While Administration officials had responded to curious queries about the matter from congressional staff working for the House and Senate intelligence committees beginning in 1996, they took pains never to paint a complete picture.

It wasn't until late 1998, when Trulock testified before **Chris Cox's** committee investigating American technology transfers to China, that lawmakers began to learn about the extent of the Chinese theft of American nuclear secrets. Washington state Democrat Representative **Norm Dicks**, ranking minority member on the **House Intelligence Committee** and also co-chair of Cox's committee, said, "**Porter Goss** and I were not properly briefed about the dimensions of the problem. It was compartmentalized and disseminated over the years in dribs and drabs so that the full extent of the problem was not known until the Cox committee."

What **Bill Safire** calls the **Clinton Secrecy Brigade** has stonewalled, stalled and delayed "vetting" the 700-page Cox Committee report (removing references to U.S. intelligence sources and methods and other classified U.S. data). Clinton wants to stop release of the report until after April 1999, when the Cox committee goes out of business and his people can spin the media to report the whole matter as no big deal. As for Notra Trulock, he reported to the Senate that in May 1998 he was removed from his position as DOE's director of intelligence and demoted to "acting" deputy director — three days after he made his third report to DOE's inspector general regarding a "steady pattern" of suppression of counterintelligence issues. CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Litigation Lottery Spins Out of Control



In 1974, Yale Law School scholar Grant Gilmore prophesied that '[t]he worse the society, the more law there will be. In Hell, there will be nothing but law.' The heat here is beginning to become intense.

by Mark S. Pulliam

THE MODERN state already has awesome powers: legislation, regulation, and taxation. To this arsenal present-day politicians want to add another weapon: litigation. For decades, government power has continually grown, in response to a series of chimerical "crises." In the United States, the 20th century has witnessed the creation of a Leviathan our Founding Fathers wouldn't recognize. As Lord Acton famously pointed out, "Power tends to corrupt and absolute power corrupts absolutely." Thus, the New Deal and the Great Society spawned Waco and Ruby Ridge, and the myriad scandals of the Clinton Administration. In recent decades the American Republic has changed in dramatic ways: unelected judges and administrative agencies now routinely make decisions that were traditionally thought to be the exclusive province of the legislature; the federal government has usurped prerogatives that historically belonged to the states; and the Constitution, intended to serve as a bulwark against governmental oppression, has become an instrument of oppression — the malleable toy of an activist judiciary.

How fitting, then, that the century ends with what could be the most reckless and indefensible development yet in the debasement of American democracy — political entities using lawsuits to impose taxes without the consent of the electorate; to implement public policy despite public opposition; and to loot disfavored industries to the point of driving them out of business. The die was cast in the tobacco litigation, the consequences of which are just now unfolding. In

Mark S. Pulliam, CPR's *legal issues correspondent, is an attorney in private practice in San Diego.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reconstructing what went wrong in the United States, causing this once-great country to stumble and fall, future generations will mark as a decisive milestone in our downward trajectory the award in late 1998 of $8.2 *billion* in attorneys' fees to lawyers representing the states of Florida, Texas, and Mississippi in their suit against the tobacco industry, which settled for a total of $34.6 *billion*. This wealth transfer, from smokers and tobacco company shareholders to a handful of personal injury lawyers, was exceeded in magnitude only by the $206 *billion* settlement reached in November 1998 between 46 state attorneys general and the tobacco industry.

Why is this significant? Because it represents an unprecedented escalation in the damage inflicted by an out-of-control civil justice system, which both enriches the most powerful and selfish special interest group in America (trial lawyers) and encourages governmental entities (which already have a monopoly on the use of force and the ability to tax) to wield a new weapon against their subjects: lawsuits. We are seeing this already with the first wave of lawsuits against the gun industry. The tobacco settlement, and especially the enormous award of attorneys' fees, takes legalized plunder to a new level, and will fuel even more plunder in the future.

THERE ARE three distinct legs to this problem, forming a corrupt and corrupting "iron triangle." The three legs are (1) the dysfunctional tort system, (2) an activist judiciary responding to the panoply of alphabet soup liberal interest groups; and (3) greedy politicians pursuing power and revenue through any available means. In the process, America is losing her soul.

Plunder

In 1996, Harold O.J. Brown wrote a book, *The Sensate Culture*, that updated and expanded a 1941 classic by Pitirim Sorokin entitled *The Crisis of Our Age*. Sorokin anticipated the "culture war" decades before it began. In his 1996 update, Dr. Brown takes Sorokin's themes and applies them to recent events. He writes of our legal system: "In the United States, many members of the legal profession have been diverted from the tasks of protecting the innocent, punishing the guilty, and enabling the weak to secure their rights, to what can only be called plunder. Attorneys and clients abuse tort law to enrich themselves, choosing as targets for exploitation not those who are responsible or negligent but simply wealthy individuals and corporations with little or no responsibility for an injury or loss."[1] That about sums it up.

How did we get here? What went wrong? Yale Law School Professor George Priest writes that "[s]ince 1960, our modern civil liability regime has experienced a conceptual revolution that is among the most dramatic ever witnessed in the Anglo-American legal system. Legal rules that had been entrenched for decades, and the attitudes and presuppositions that supported them, were suddenly repudiated and replaced by rules and presuppositions radically different." Traditionally, establishing civil liability under our tort system required (1) an injured person wanting to bring a lawsuit, (2) blameworthy conduct by the defendant (negligence or intentional wrongdoing), (3) causation (*i.e.*, proof that the blameworthy conduct actually caused the harm), and (4) tangible damages. Each of these elements has been subverted by "developments" since the 1960s. We now have "class actions" on behalf of people who have never been consulted about bringing a lawsuit, "strict liability" for certain categories of defendants in the absence of fault, "market share liability" without proof of causation, "emotional distress" and other speculative damages serving as a basis for awards in unlimited amounts, and the ever-present risk of punitive damages (which are not really damages at all, representing punishment instead of compensation). Defenses such as contributory negligence and assumption of risk have been abolished or curtailed by judicial fiat. Through the ingenuity of something called "enterprise liability," all that is needed to recover these days is a sad story and a defendant or defendants with a deep pocket.

Scholars such as Peter Huber, in his 1988

1. Harold O.J. Brown, *The Sensate Culture*, 120 (1996).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

book *Liability*, and Walter Olson, in his 1991 book *The Litigation Explosion*, have shown how these changes in the civil justice system have had the effect, if not the purpose, of encouraging ever more costly and burdensome litigation. The proof of the pudding is in the eating. Last year, eight of the nation's 10 biggest jury verdicts topped $100 million *each*. Altogether, the 10 biggest jury awards in 1998 totaled $2.8 billion, *four* times the 1997 top 10. In 1989, the *largest* verdict was $75 million, a number that wouldn't have even made it onto last year's top 10 list. As one cynic pointed out, "now you can have a $50 million verdict and it is not even in the newspaper." Things are even worse here in California. In California, the top 10 jury verdicts in 1998 totaled a staggering $1.5 billion, almost *five* times the top 10 a year earlier. In fact, the biggest California jury verdict in 1998 — $785 million — was more than twice the entire 1997 top 10 *combined.*

Three legs form a corrupt 'iron triangle': the dysfunctional tort system, an activist judiciary, and greedy politicians pursuing power and revenue through any available means.

As a result, we have a new era of Robber Barons. Call them Moguls of Misfortune or Tycoons of Torts: lawyers such as Bill Lerach in San Diego, Joe Jamail and John O'Quinn in Houston, and a select cadre of their contingency fee trial lawyer brethren across the country. They earn tens of millions of dollars or more each year from a legal system that makes it so expensive, unpredictable, and potentially ruinous to defend lawsuits that many defendants settle out of court for exorbitant sums. Those that don't risk ending up on the top 10 list. It is a perfect extortion racket. In the process, through enormous political contributions the trial lawyer tycoons have installed themselves as the owners of the Democrat Party. Bill Lerach is one of the nation's largest political donors. Trial lawyers gave more than $3 million to Gray Davis and more than $9 million to California candidates overall in 1998. The plaintiff's bar has become the best-funded special interest in the United States.

Depressed yet? I've covered only one of the three legs. The second leg is even worse. Distorting the civil justice system to redistribute wealth — otherwise known as stealing — is bad, but it is only money. The judicial system can also be abused for *ideological* purposes, which has far-reaching consequences.

Government by Judiciary

Beginning with the 1954 decision in *Brown v. Board of Education*, the U. S. Supreme Court began actively abusing its power and the public trust to effect social and political change without regard to the law: interpreting the Constitution contrary to its text or original intent, to achieve a particular result deemed to be desirable (and, let me hasten to say, in the case of *Brown*, the result *was* desirable, albeit not the Court's job and anticipating political changes that were democratically inevitable).

Judicial lawlessness really took off with the Warren Court in the 1960s, and President Nixon's and later Republican appointments merely slowed the rate of increase in activism. Taking its cue from the success of the NAACP Legal Defense Fund in the desegregation cases, the left has christened a flotilla of alphabet-soup organizations dedicated to enacting liberal public policy through litigation: ACLU, NOW, MALDEF, LULAC, NARAL, People for the American Way, Planned Parenthood, Lambda Legal Defense and Education Fund, Sierra Club, NRDC, and more all the time.

The laws schools and liberal media applaud activist judges who usurp the role of the political branches and the other branches often abdicate their roles, perhaps glad that someone else has relieved them from responsibility for making controversial decisions. Federal courts have become the most powerful, and least scrutinized, branch of government in terms of domestic pol-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

icy. And they are completely unaccountable to the voters. The left understands this and has exploited it. The left's litigation agenda is to transform, and destroy if necessary, our basic institutions. They have succeeded in their goal to emasculate law enforcement and banish religious belief from public life (prayer in schools, public display of religious symbols), and are well on their way to undermining private property (environmental law), destroying marriage and the family unit (same sex marriage, gay rights, parental consent), traditional morality (legalized pornography, abortion on demand, contraceptives in public schools), and civic order (vagrancy, loitering, and curfew laws). These goals, few people outside the legal profession realize, are widely shared by the legal establishment. Like the entertainment industry and the media elite, lawyers as a group have become disaffected with, or certainly alienated from, bourgeois institutions. This is an unfortunate characteristic of the "chattering classes."

But let me turn now to the third leg of the triangle, in which the (merely greedy) trial lawyers join forces with the (ideologically aggressive) activist judges and liberal special interest groups to plunder and pillage entire disfavored industries: tobacco and firearms.

The Tobacco Precedent

Let me make an obligatory disclaimer. I do not smoke. I do not own tobacco company stock. I do not work for tobacco companies and never have. I don't like the smell of cigarette smoke and I detest cigars. I think smoking is a foul habit. A vice.

Most people in this country don't smoke. Some do, because they enjoy it, just as some people consume foods or beverages that are bad for their health because of the pleasure they bring. Some people climb mountains, race cars, or drive motorcycles, or scuba dive, sky dive, snow ski, bungee jump, etc., for the thrill of it, even though those activities are dangerous. Some people are couch potatoes, which is also bad for your health. In America we permit these activities, both risky and sedentary, because of something called freedom. And if someone gets liver disease from drinking alcohol, heart disease from eating too much fat, or cancer from smoking cigarettes, we say tough luck because of something called individual responsibility. Not anymore. The concept of individual responsibility — the bedrock of a free society — is under attack.

Freedom and responsibility are linked; they are two sides of the same coin. You cannot have one without the other. If autonomous adults are not responsible for their own decisions, that means they cannot be trusted to make the right decisions. In a free society, people must be permitted to make both wise and foolish decisions. Paternalism is the antithesis of personal freedom. Imposing liability without fault, or, more precisely, relieving one person of individual responsibility for his actions while imposing liability on the subject of that person's volitional lifestyle decisions, is the exercise of raw power. Doing so in the context of a lawsuit — as opposed to legislation, for example — is the random, arbitrary exercise of raw power. What do we generally call the arbitrary exercise of brute force by government? Tyranny. That is why these developments in our legal system are so disturbing. The abolition of individual responsibility in our legal system threatens freedom and ushers in the omnipotent state.

THE TOBACCO lawsuits proceed from the premise that smokers are not personally responsible for smoking. In an earlier era, this shirking of blame was treated with scorn. That was then. The tide has turned on the tobacco industry, and with it — unless we reverse the course — on the rest of our economy. In February, a San Francisco jury awarded a three pack-a-day smoker with lung cancer $1.5 million in compensatory damages and a record $50 million in punitive damages (more than three times what the plaintiff's lawyer asked for) against Philip Morris, despite testimony that she smoked for the enjoyment and kicked the habit on the first try. (She claimed that in 35 years of smoking she never knew it was bad for her health. Does anyone believe this?) In any ra-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tional world, this would be a frivolous lawsuit, but in an age of political correctness in which smoking has been demonized, it becomes a $51.5 million windfall. In March, an Oregon jury topped this with an $80.3 million verdict in favor of a janitor who died of lung cancer after smoking for 40 years. Despite a finding that the smoker was 50 percent responsible, the jury awarded $79.5 million in punitive damages against Philip Morris. There are a bunch more of these individual smoker cases in the pipeline (more than 500 against Philip Morris alone), and the trend doesn't look good.

Lawsuits by individual smokers, however, are put to shame by the abomination that led to the $206 billion settlement last fall. The *states* sued the tobacco companies to recover the cost of medical treatment they *chose* to provide to smokers who *chose* to smoke, for health conditions that *might* have been caused or aggravated by smoking, which has always been and remains legal (and heavily taxed). The alleged harm was two consensual choices removed from the product in question: the smokers' decision to smoke, and the states' decision to treat smokers. In fact, the issue of causation was even more tenuous than that. The states contended that they were indirectly injured by the sale of tobacco because of the costly health care and other public services provided to smokers. When the tobacco companies suggested that maybe the cigarette taxes paid by smokers were adequate to cover these costs (and then some), or that financially the states came out ahead on smokers because their diminished life expectancy reduces pension obligations and the demand for public services over their abbreviated lifetime, the states objected. The states also sought to establish by fiat the causal link between smoking and the states' medical costs — usually a critical issue the plaintiff has the burden of proving. Some states even passed laws to this effect; that is, for purposes of the litigation, laws were passed to make a statutory assumption, based on "statistical analysis" of aggregate data, that certain illnesses, such as emphysema and lung cancer, were *caused* by smoking. Some states, such as Florida, also abolished traditional affirmative defenses (such as assumption of the risk and comparative negligence) available in these Medicaid reimbursement cases. In other words, prior to going to court, the states "fixed" or "rigged" the lawsuits so that it was impossible for them to lose, and impossible for the tobacco industry to win.

IN THE face of what can only be called large-scale thuggery by government officials, the tobacco companies gave up and cut a deal in which they agreed to pay out more than $246 billion to the states,[2] over time, which they hope to recover through price increases for those who continue to smoke. This settlement was "voluntary" in the same way that a ransom payment is uncoerced. The lawyers who handled the first round of lawsuits for Texas, Florida, and Mississippi collected $8.2 billion in attorneys fees, in some cases amounting to $100,000 an hour. The lawyers representing the 46 states tagging along in a second group of lawsuits stand to pocket another $25 billion or so in attorneys' fees. These lawyers, modern-day buccaneers, now have an inexhaustible political war chest with which to plot the looting and pillaging of any other industry they decide to decimate.

First asbestos, then silicone, and now tobacco. Who's next? Guns, another product demonized by the liberals. But it won't stop there. An anti-abortion web site in Portland, Oregon has been ordered to pay $107 million in damages, effectively putting it out of business and scaring off any like-minded Internet activists. Speech that under the First Amendment couldn't be silenced by an injunction is silenced by a lawsuit. Go figure. Who else are the liberals demonizing? HMOs, for one. Is it any surprise, then, that in January a San Bernardino jury awarded $120.5 million against Aetna U.S. Healthcare for refusing to pay for experimental cancer treatment? Bill Gates, this generation's most successful entrepreneur, is being persecuted by the Department of Justice in a federal antitrust lawsuit, as a result of which Microsoft might be broken up. (Bogus lawsuits are wrong

2. Texas got $17.3 billion; Florida, $13.2 billion; Mississippi, $4.1 billion; Minnesota, $6.5 billion, and the other 46 states, $206 billion.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

no matter whose ox is gored. Conservatives should resist the temptation to cheer when Oliver Stone, director of the movie *Natural Born Killers*, is sued by victims of a shooting spree inspired by that film.)

But first let's finish with tobacco. Did the tobacco companies buy their peace from the looters with $246 billion? No. It was just the down payment on what will become a frenzy of plunder. It just encouraged other bandits to join in. In his State of the Union address in January, Bill Clinton announced that the federal government will launch its own lawsuit, seeking billions "to strengthen Medicare." Hundreds of labor union health care plans have sued on the same theory, seeking tens of billions of dollars, as have 50 Blue Cross/Blue Shield plans, the Manville Trust (set up to pay asbestos claims in the wake of the 1988 Johns Manville bankruptcy), various Indian tribes, and the governments of Guatemala, Nicaragua, Panama, Bolivia, and Venezuela. Think about it. Banana Republics come to America to sue! What does that tell you? When will the tobacco litigation end? Not until all the money is gone. The end game doesn't look good for the tobacco industry.

WHY SHOULD we care? Cigarettes are bad, and they stink. Good riddance, right? If the Legislature had voted to ban the sale and consumption of cigarettes outright, this would have been a principled decision, albeit a controversial one. But the tobacco precedent allows cigarettes to be sold — in fact *depends* on them being sold. Instead of imposing a tax directly, with the revenues coming into government coffers, the tobacco precedent has government entities collecting money by filing lawsuits against disfavored businesses, through the intermediary of attorneys. As George Will put it, this amounts to sub-contracting policy-making to trial lawyers and juries. The saddest thing about this whole spectacle is watching our politicians fighting over the loot (and that's what it is), just like a color TV carted away from the broken window at the neighborhood appliance store. California's share of the loot is $25 billion. Wouldn't it be refreshing if one of our elected representatives showed some moral leadership and declined to accept this money because it was ill-gotten and therefore tainted? Don't hold your breath. Politicians have an insatiable appetite for other people's money.

Dennis Prager has identified the fallacy in the anti-tobacco crusade:

> The last thing America needs is a massive campaign further eroding personal responsibility. We already live in a country that regularly teaches its citizens to blame others — government, ads, parents, schools, movies, genes, sugar, tobacco, alcohol, sexism, racism — for their poor decisions and problems. Now we have the largest public-relations campaign in American history teaching Americans this: If you smoke, you are in no way responsible for what happens to you. You are entirely a victim.[3]

Guns are next

Which brings us to the latest chapter in this sordid tale, the gun litigation. (Same disclaimer: I don't own a gun, don't work for the gun industry, etc.) In February, a Brooklyn jury held several gun makers responsible for injuries inflicted in gun-related crimes, and ordered them to pay $520,000 in damages, not because of a defect in the guns, but for "negligently oversupplying" the market where gun laws are lax, knowing that some guns would fall into the hands of criminals. A gun *maker* is liable for a criminal assault *using* a gun. If this strikes you as a ridiculous theory, that's because it is. Truth be known, much of the law these days is ridiculous. Imagine holding an automobile manufacturer liable for a hit-and-run accident in one state because it sold "too many" cars in another state that had a high rate of auto theft.

But it gets worse. Five cities — Atlanta, Chicago, Miami, New Orleans, and Bridgeport, Connecticut — have taken the tobacco precedent to its logical next step by filing suit against the gun industry to recover the costs attributable to treating shooting injuries and fighting gun-

3. Dennis Prager, "The Soul-Corrupting Anti-Tobacco Crusade," *The Weekly Standard* (July 20, 1998), at 22.

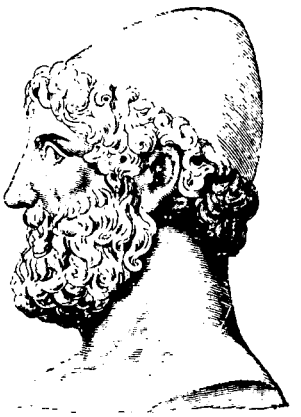
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

related crime. Los Angeles, Philadelphia, Baltimore, Tampa, Newark, San Francisco, Sacramento, St. Louis, Boston, and other cities are reportedly considering filing similar suits. Cities see gun lawsuits as another tobacco-style multi-billion dollar bonanza. The difference is that the gun industry, unlike tobacco, doesn't generate enough profits to absorb a tobacco-style settlement or verdict. (Cigarettes generate annual U.S. sales of $45 billion, compared to $1.4 billion for guns.) Thus, these urban mayors are pursuing a revenue source through litigation with a second, and undisclosed objective — to achieve the ultimate gun control by driving firearm manufacturers out of business.

The lawsuits raise various theories — from the failure to include child-proof safety devices, failure to warn, and negligently oversupplying the market — but what they have in common is the goal of fleecing an unpopular industry. Chicago is seeking $433 million for police and hospital costs attributed to gun violence, but it is by no means clear that there would be *less* crime without guns. Some researchers say that private ownership of guns *reduces* crime, and that reducing the number of guns would *increase* crime. In the feeding frenzy of litigation, however, the merits of the issue are forgotten. Faced with the prospect of overwhelming (and unrecoverable) defense costs, the gun industry is already reportedly considering a settlement, following the disastrous precedent set by the tobacco industry.

Did the tobacco companies buy their peace with $246 billion? No. It was just the down payment on a frenzy of plunder.

If gun manufacturers are liable for the cost of crime, because we disregard the individual responsibility of gun users, then the alcohol industry (beer, wine, and liquor) is next, or maybe fast food, or auto manufacturers, or dairy farmers, or beef producers, or gambling. All of those industries provide the means for individuals to harm themselves or others. Whose fault is that? As the concept of individual responsibility is abandoned in the pursuit of economic recovery, our elected representatives become another group of ambulance chasers. And responsible adults, instead of facing the consequences of their choices, are treated as helpless children. Government regulation and taxation are achieved through the least democratic and deliberative means — litigation — while at the same time empowering activist judges, greedy trial lawyers, zealous ideologues, and power-hungry, revenue-seeking elected officials. Lawsuits have become the jurisprudential equivalent of the Jerry Springer Show, with dysfunctional juries throwing around hundred million dollar verdicts instead of chairs. Not a pretty picture.



IF YOU think this is gloomy, you're right. Dennis Prager, quoted earlier, is an astute commentator on moral issues. He wrote recently in the *Weekly Standard* that "America is metamorphosing from a morality-based society to a law-based society. The terribly high number of lawyers in America and in politics has had awful effects on society. People are beginning to think like lawyers. American life is literally being de-moralized — moral categories (and common sense) are being replaced by legal categories."[4]

Arguments as scurrilous and spurious as those used by Johnnie Cochran to defend O.J. Simpson are now commonplace in Washington D.C. and across the country. We are fast becoming a government *of* the lawyers, *by* the lawyers, and *for* the lawyers. Unless we do something to correct this, common sense and reason will perish from the earth. CPR

4. Dennis Prager, "A Plan of Attack," *The Weekly Standard* (Feb. 22, 1999), at 30.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Front Line

(Continued from page 5)

and not just through talk, but through the large dose of hands-on work required in every urban quarter of the state. The only way to compete with the developing labor machines is to create permanent local Republican programs that accomplish similar goals. Republicans lack the unions' paid workers to man these programs, but that is no excuse for failing to organize them. Union leaders freely admit their ground efforts imitate the clearly successful volunteer Christian Coalition programs in the southeast portion of the nation. The effective formula appears to be constant communication with volunteers, close GOP ties to active partisan and non-partisan officials, and the financial commitment of supporters to keep experienced Party employees and programs functioning.

The GOP can beat the unions at the precinct level. Various Party-crippling, First Amendment-violating remnants of Progressive and Watergate era legislation are being gutted by federal and state courts, giving California Republicans a more balanced playing field on which to compete with labor for the first time in several decades. Local Republican Central Committees can, like labor unions, now endorse in non-partisan races — a practice that should serve to reconnect the GOP with local elected officials and grassroots movements. A federal court in Colorado has thrown out federal hard money spending restrictions on Parties, which gives Washington-oriented Republican officials a clear financial reason to participate in Party building. The tools for a rebirth of local Party structures are becoming available.

For Republicans, Miami Beach could serve as a loud, unpleasant wake-up call. Unions intend to create the structure to keep the GOP in the minority in Sacramento and the conservative agenda on the back bench. Local Republican Parties must rebuild basic programs, or on the back bench they and their cause will stay. CPR

Correspondence

(Continued from page 2)

his echoes running for office here in California last November. The "I know what's best for you" crowd. Now hear this — if we do not find a way to advance conservative policy agendas while at the same time tempering our public rhetoric, we will have more disasters next cycle. It's hard for some of our friends to understand this but in this business it's not enough to be right (right is good enough for brain surgeons). In politics you must also be popular. If we continue to try to appeal to voters with a Republican diatribe we'll get about 43 percent of the vote in most areas. What a shame 43 percent isn't enough. Finally Mr. Chynoweth, you brilliant guys ought to move over once in a while. In today's climate our articulate women are the most effective spokespersons on many Republican policy initiatives. My letter was directed to prominent Republican activists who, hopefully, understand what it means to be a Republican. Ed, darling, you need a makeover.

Reinventing John Jacobs?

Regarding the "'big wet kiss" for Sen. Jim Brulte, referred to by *Sacramento Spectator* (*CPR*, March/April 1999), from "ultra-lib *Sacramento Bee* columnist John Jacobs": Jacobs recently planted another one — this time on Republican Secretary of State Bill Jones, of whom Jacobs wrote (on March 16), "without question, Jones has infused the office with new energy, policy ideas, and certainly new visibility after so many listless years under March Fong Eu." *Sacramento Spectator* wondered what Jacobs was up to, *vis-à-vis* Brulte, since, as the *Spectator* wrote, Jacobs is "smart enough to know a kind word from him would damage anyone to the right of Maxine Waters." Perhaps we should remember that, for all their blazing compassion, liberals *are* capable of selfishness and that the answer to this mystery is nothing more than that Jacobs is trying to "moderate" his image. God knows it could use some of that, the *Spectator* having accurately described it as that of "a knee-jerk, mean-spirited and rabid opponent of all things conservative." Even so, Jacobs is still doing neither Brulte nor Jones any favors. After all, what sort of Republicans would he be likely to want to praise if he concluded he *had* to praise any at all? Would they be standout conservatives? Or those, in Jacobs' estimation anyway (which we know is untrustworthy, to put it mildly), whom he thinks are relatively to the left?

Frank Josephs
Chico

Image or Principle?

Politics presents two diverging roads: the Democrats' road of image and the Republicans' road of principle. Impressed by Bill Clinton's success, Republicans followed him down his road. But we cannot succeed on Clinton's road because our strengths and our challenges are different.

Democrats can focus on image because the media make it their best feature, but the media distort our image, making it our worst feature. Instead of Clinton's image, we should model ourselves on Ronald Reagan's strength: leadership and ideas. Reagan was able to bring his ideas directly to the people, unfiltered, because they were powerful and he made great, but simple, arguments. People ignored the media's distortion because they were so impressed with Reagan's ideas. As long as Republicans focus on image, we will stumble; as long as we focus on ideas, we will make gains. We must come back to the road less traveled.

Raymond J. Tittmann
Walnut Creek CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Front Line

(Continued from page 5)

and not just through talk, but through the large dose of hands-on work required in every urban quarter of the state. The only way to compete with the developing labor machines is to create permanent local Republican programs that accomplish similar goals. Republicans lack the unions' paid workers to man these programs, but that is no excuse for failing to organize them. Union leaders freely admit their ground efforts imitate the clearly successful volunteer Christian Coalition programs in the southeast portion of the nation. The effective formula appears to be constant communication with volunteers, close GOP ties to active partisan and non-partisan officials, and the financial commitment of supporters to keep experienced Party employees and programs functioning.

The GOP can beat the unions at the precinct level. Various Party-crippling, First Amendment-violating remnants of Progressive and Watergate era legislation are being gutted by federal and state courts, giving California Republicans a more balanced playing field on which to compete with labor for the first time in several decades. Local Republican Central Committees can, like labor unions, now endorse in non-partisan races — a practice that should serve to reconnect the GOP with local elected officials and grassroots movements. A federal court in Colorado has thrown out federal hard money spending restrictions on Parties, which gives Washington-oriented Republican officials a clear financial reason to participate in Party building. The tools for a rebirth of local Party structures are becoming available.

For Republicans, Miami Beach could serve as a loud, unpleasant wake-up call. Unions intend to create the structure to keep the GOP in the minority in Sacramento and the conservative agenda on the back bench. Local Republican Parties must rebuild basic programs, or on the back bench they and their cause will stay. CPR

Correspondence

(Continued from page 2)

his echoes running for office here in California last November. The "I know what's best for you" crowd. Now hear this — if we do not find a way to advance conservative policy agendas while at the same time tempering our public rhetoric, we will have more disasters next cycle. It's hard for some of our friends to understand this but in this business it's not enough to be right (right is good enough for brain surgeons). In politics you must also be popular. If we continue to try to appeal to voters with a Republican diatribe we'll get about 43 percent of the vote in most areas. What a shame 43 percent isn't enough. Finally Mr. Chynoweth, you brilliant guys ought to move over once in a while. In today's climate our articulate women are the most effective spokespersons on many Republican policy initiatives. My letter was directed to prominent Republican activists who, hopefully, understand what it means to be a Republican. Ed, darling, you need a makeover.

Reinventing John Jacobs?

Regarding the "'big wet kiss" for Sen. Jim Brulte, referred to by *Sacramento Spectator* (*CPR*, March/April 1999), from "ultra-lib *Sacramento Bee* columnist John Jacobs": Jacobs recently planted another one — this time on Republican Secretary of State Bill Jones, of whom Jacobs wrote (on March 16), "without question, Jones has infused the office with new energy, policy ideas, and certainly new visibility after so many listless years under March Fong Eu." *Sacramento Spectator* wondered what Jacobs was up to, *vis-à-vis* Brulte, since, as the *Spectator* wrote, Jacobs is "smart enough to know a kind word from him would damage anyone to the right of Maxine Waters." Perhaps we should remember that, for all their blazing compassion, liberals *are* capable of selfishness and that the answer to this mystery is nothing more than that Jacobs is trying to "moderate" his image. God knows it could use some of that, the *Spectator* having accurately described it as that of "a knee-jerk, mean-spirited and rabid opponent of all things conservative." Even so, Jacobs is still doing neither Brulte nor Jones any favors. After all, what sort of Republicans would he be likely to want to praise if he concluded he *had* to praise any at all? Would they be standout conservatives? Or those, in Jacobs' estimation anyway (which we know is untrustworthy, to put it mildly), whom he thinks are relatively to the left?

Frank Josephs
Chico

Image or Principle?

Politics presents two diverging roads: the Democrats' road of image and the Republicans' road of principle. Impressed by Bill Clinton's success, Republicans followed him down his road. But we cannot succeed on Clinton's road because our strengths and our challenges are different.

Democrats can focus on image because the media make it their best feature, but the media distort our image, making it our worst feature. Instead of Clinton's image, we should model ourselves on Ronald Reagan's strength: leadership and ideas. Reagan was able to bring his ideas directly to the people, unfiltered, because they were powerful and he made great, but simple, arguments. People ignored the media's distortion because they were so impressed with Reagan's ideas. As long as Republicans focus on image, we will stumble; as long as we focus on ideas, we will make gains. We must come back to the road less traveled.

Raymond J. Tittmann
Walnut Creek CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

New Assembly GOP Leader Scott Baugh

by Leon McKinney & John Kurzweil

Republican Backbone

IN QUALITY, if not in quantity, Scott Baugh, the Reaganite that conservative Assembly Republicans recently chose as their new leader, has already seen the worst that politics can throw at a man. Scott happened to be in the wrong place at the wrong time in 1995 when it became convenient for an ambitious, none-too-bright thug by the name of Michael Capizzi, then district attorney of Orange County, to find a scapegoat or two to stomp as part of his plan to become California attorney general.

Baugh offered possibilities. He had just won the Assembly seat vacated by "Dumb Doris" Allen, the GOP traitor who'd followed Paul Horcher in helping Willie Brown keep control of the state Assembly after Republicans won the lower house majority in 1994. Allen, like Horcher before her, was recalled by the voters for her trouble. This annoyed media liberals, who consider it *gauche* for Republican voters to demand a measure of loyalty from their elected representatives, and so reporters were looking for someone to vent upon. Thus presumably knowing he could count on favorable press (he was not disappointed), Capizzi pounced on some paperwork errors in Baugh's campaign reports (routine mistakes normally handled as FPPC administrative matters similar to ones that, it later transpired, Capizzi himself had made more than once) to pursue grand jury indictments against Baugh.

Actually, Baugh was not Capizzi's prime target; just a stepping stone he expected to use, as he had others, to help him bring down a really big fish: "a Speaker or a Congressman," as a Capizzi investigator allegedly told Baugh during an interview. Nonetheless, the district attorney had turned the screws on Baugh to the maximum to provide his victim all possible incentive to "cooperate" with the "investigation" or, at least, to plead guilty to a felony. Such a plea would provide Capizzi a new "notch" for his gun, and propel the perception that he was gaining momentum toward his ultimate targets.

Capizzi had already succeeded in squeezing a few small fry who, facing impossible legal fees and the limitless resources the district attorney could throw at them, had plea-bargained their way out from under. Baugh would be next. The offers were made, but Scott said no. Capizzi resorted to a campaign of gentle persuasion that included a storm-trooper-style raid on Baugh's home and prosecution of Baugh chief of staff

California Political Review *Contributing Editor Leon McKinney is an engineering consultant in St. Louis, Missouri. John Kurzweil is* CPR's *editor.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Maureen Werft, charging her with the the high "crime" of voting from her home precinct in Huntington Beach while in Sacramento for a summer job. It was during this phase that Capizzi's "investigators" allegedly told Baugh and his campaign treasurer, Dan Traxler, that the D.A. would "gladly trade an Assemblyman for a Speaker (Curt Pringle) or a Congressman (Dana Rohrabacher, who'd sponsored Baugh)." They also asked members of Baugh's and Rohrabacher's staffs whether they were now, or ever had been, homosexuals.

When, by the end of 1995, one grand jury failed to indict Baugh, Capizzi empaneled another. Then, following numerous press leaks, Capizzi brought a 22-count indictment against the Assemblyman *five days* before his March 26, 1996, primary. This was all in gross violation of the prosecutors' statutory code of conduct which says they should do everything in their power to avoid the merest appearance of attempting to influence elections. Baugh won the primary handily.

Baugh addressed the over-riding problem for Republicans: nobody believes them anymore. They're wimpy and too fearful of doing anything they think the media might disapprove.

Then in September 1996, Orange County Superior Court Judge James Smith threw out Capizzi's Baugh indictment because, among other reasons, the judge said the D.A. had "destroyed the independence of," "misled," and "improperly used" the grand jury. Most damningly, Capizzi had withheld from the panel evidence that cleared Baugh: *several dozen statements* by Baugh's treasurer, Dan Traxler, establishing that *Traxler,* not Baugh, was responsible for the false campaign reports that were the basis of the charges. The response from the D.A.'s office? Herr *Oberlieutenant* Capizzi sent Assistant D.A. Brent Romney to threaten *Judge Smith* saying that, if Smith would not recuse himself from further action in Baugh's case, an embarrassing episode would be disclosed involving Smith's wife while she was employed by the Orange Unified School District. Smith ignored the threat, and stayed on the case. At this point another man might have quit, but not Captain Ahab Capizzi. He responded by refiling his charges directly against Baugh.

The matter dragged on, continuing to drain Baugh's bank account, until finally, on September 14, 1997, Traxler gave a written confession completely exonerating Baugh. Superior Court Judge Bill Evans dismissed most of Capizzi's charges against Baugh on November 24 of that year. The district attorney went on to lose, spectacularly (66-to-34 percent), the 1998 primary for attorney general, losing his Orange County home turf by more than 2-to-1. The final act in this prosecutorial farce ended just before Easter this year when Democrat Attorney General Bill Lockyer, a fiercely partisan liberal Democrat, urged Judge Francisco Briseno, who'd taken over Baugh's case, to dismiss all remaining charges "in the interest of justice." Briseno did so at the end of March, and Lockyer said he would refer the matter to the state Fair Political Practices Commission, saying "there were no crimes committed" by Baugh, and that his decision was "not even a close call."

Scott Baugh's long, unflinching battle against Capizzi's relentless prosecutions, with nearly the entire state's political establishment either arrayed against him or cravenly standing on the sidelines, says something about his character. Most people would have taken up Capizzi's repeated offers of pleading guilty to felonies, with maybe no time served, but the loss of their law license and their seat in the Legislature, if only to avoid the ruinous $400,000 in legal bills Baugh has run up. Baugh did not. If Republicans have been looking for a man with backbone to lead them, one who knows the importance of the truth, they seem to have found one.

A NATIVE CALIFORNIAN, Scott Baugh grew up in Redding. He went to Liberty University, receiving a BS degree in Business Administration in 1984, followed by a law degree from McGeorge School of Law, University of the Pacific, in Sacramento. After five years of private practice, he joined Union Pacific Railroad Company as in-house counsel.

He began his political activity in 1984, working for the Republican Study Committee under Congressman Bill Dannemeyer. In 1991, Baugh moved to his current home in Huntington Beach, later volunteering with Jim Silva's campaign for Orange County Supervisor and serving as founding president of the Huntington Beach Republican Assembly. He

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

remained little-known, however, until the summer and fall of 1995, when he replaced "Dumb Doris." Since then, Baugh has earned a reputation in Sacramento as a representative who gets bills through, including two that will largely prevent future prosecutorial abuses by would-be Capizzis. Even Assembly liberals have a grudging respect for him, while Assembly conservatives obviously like and support him.

In an interview, Baugh addressed the over-riding problem for Republicans: nobody believes them anymore. They're wimpy and too fearful of doing anything they think the media might disapprove. One does not need to go far for examples to support this assessment: supposed conservative champion Attorney General Dan Lungren, for instance, despite repeated pleas that he do the right thing and call for dismissal of Baugh's case, never did so, instead leaving it to Lockyer, of all people.

Too often, says Baugh, Republicans try to be "imitation Democrats," which rarely does more than leave the conservative base disgusted. Those voters who like the idea of Republicans promising to think and act like Democrats are still going to vote for the real thing. For Baugh, the idea of Republicans competing for liberal votes is foolish. "Republicans can never outspend the Democrats; it's like being a fish out of water." He says he will leave it to Democrats to "brag about being the party of Big Government." He intends to fashion an Assembly Republican message that the GOP is the Party of liberty and responsibility and plans a series of initiatives to support that contention. He is working, for example, on package of bills associated with HMO reform. Because trial lawyers view HMOs as another lucrative gold mine to be looted, Baugh says, Democrats want to allow class action HMO suits theoretically on behalf of patients whom the trial lawyers say were wrongly denied health care, all of which will generate hefty trial lawyer campaign contributions. Also, it's always fun to jump on those evil corporations and driving HMOs out of business moves the ball towards the Democrats' goal of government-run Hillary Care. So the Democrats will try their "mandate-of-the-month" approach to "micromanaging HMOs." This month's mandate: require HMOs to pay for contraceptives.

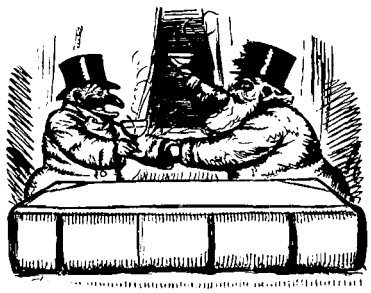
But Republicans, on the other hand, Baugh says, have been standing with the big health care businesses rather than with individual liberty: for instance, they should champion letting citizens make their own health care choices. Baugh says Republicans should support helping *individual* plaintiffs to hold HMOs responsible by allowing patients to sue *if they claim they were individually, improperly denied care.* But, he says, let's also work to end the "disconnect" between health care consumers and providers that arises from the current third-party payments system that has employers paying their employees' health care bills. This disconnected system is one reason California has seven million people without health insurance. Also, says Baugh, HMOs now offer health care plans as one-size-fits-all arrangements, predictably, because that suits the interests of employers, who pay the piper. But if, for instance, we make individual Medical Savings Accounts more attractive and allow individuals full deductions for health insurance premiums (now only corporations get those deductions), then individual health care consumers will more often pay the bill and HMOs will begin tailoring distinctive plans to serve diverse individual circumstances.

ON ANOTHER big issue with voters, education, Baugh wants "to empower parents to make the best choices for education," though he admits that "vouchers" do not "sell well." Instead, he wants to provide state tax credits of up to $4,000 to parents, initially targeting parents of children currently trapped in the worst performing, most dangerous schools. Baugh is fascinated by Ted Forstmann's private scholarships endeavor, and is seeking to hold discussions with Forstmann and Arizona's education chief, who's pushed through tax credits (over the dead bodies of the teachers unions).

Baugh also wants to take on another "disconnect" — this one between the motorists who pay gas taxes and the uses for which gax tax revenue is spent. Baugh notes that after motorists pay the 18¢ per gallon state and the 9¢ per gallon federal gas taxes, California then assesses sales tax on the whole amount, an outrageous "tax on the taxes" that generates $43 million a month that goes to the state's general fund. Baugh wants to exclude gas taxes from the sales tax and have state gas tax revenue earmarked for streets, roads, highways, and bridges. And no more gas tax money would be spent on those grossly wasteful mass transit systems our liberal control freaks love so much. Oh, and one more thing: Baugh wants to eliminate the car tax.

Baugh's agenda could go a long way towards restoring Republican voters' faith in their Party. And he says he knows that standing with individual liberties on what Reagan Democrats would call "damn right" issues, such as reforms of auto-related taxes and education tax credits, can't help but bring some of them back to the GOP's side. As Baugh has already shown, he has the stubborn, principled perseverance to prove a powerful force in Sacramento. CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



CRITICUS

Cathedral Sparrow — or Eagle?

BY G.B. TENNYSON

YIELDING TO an entreaty from a genealogically-inclined cousin (yes, a cousin again) and mindful of his duties as *CPR's* European correspondent, Criticus ventured yet again to Germany, this time in and around Holy Week. As ever, art and culture obtruded and enlightened him on his way. Herewith some of that enlightenment for Constant Readers and others.

First stop was the area around Frankfurt, not only because that's where the planes come in but because it was to Hessian archives that I was bound, and Frankfurt is the chief, though not the capital, city of the state of Hessen, which for unknown reasons has long since been Hesse in English. The British must be responsible for this, as they anglicize more readily than do Americans. Perhaps they felt excessive in having added an "s" to the French cities of Lyon (hence pronounced "lions") and Marseille (hence pronounced "mar-SAILS"), so decided to subtract an "n" from Hessen. The French retaliated by putting an "s" on their version of London (*viz.* Londres), but the only notable Germanization of English-language place-names known to me is the stalwart Kalifornien, which looks and sounds like something out of the *Nibelungenlied.*

However the case may be with variant city names, the banking and transportation center that is Frankfurt is so popular a business and convention destination, even in blustery March (rain mixed with snow showers and temperature at 37° upon Criticus's morning arrival), that hotel rooms were very hard to come by. I had to settle for one of those worldwide chain hotels located in an industrial park from which the only escape is the hotel shuttle that runs back and forth to the airport whereupon one then proceeds onward to other destinations. It became for a time the hub of my operations.

The Frankfurt airport is indeed a marvel of efficiency and poses no problems if one is merely arriving or departing. But to plumb its depths one needs a degree from a German technical institute, for there are levels below the conventional arrival and departure levels and levels above. Space and almost certain reader exhaustion argue against full disclosure of the complexities of these levels. Just remember if you are going to make the airport your hub, carry always with you the foldout map with its cutaway profiles of each level, keeping it readily accessible and secure along with your passport.

Criticus, of course, had higher aims than merely mastering the intricacies of Flughafen Frankfurt. In

G.B. Tennyson is CPR's *European correspondent and sometimes sparrow, sometimes eagle in the cathedral of learning and field of battle known as UCLA.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pursuit of such aims he took the train (lower-lower level in the airport) to Wiesbaden and sought out the *Hauptstaatsarchiv* (chief state archives) for Hessen-Nassau. Of course it had moved to a new location since the list that I had of German genealogical archives was published. This intelligence became available only after a long walk to the original location, now an office for the environment, and a consequent plea for help directed to the minor official who guards the entrance and exudes all the charm of an American postal service employee. The result was retracing the long walk and undertaking a longer, uphill one in the opposite direction. But this did indeed lead to the archives, handsomely housed in a building that blends harmoniously with its semi-sylvan surroundings, and to a long afternoon with ancient documents all in traditional German Gothic script with even the dates written out rather than rendered with numbers. When Mark Twain opined that life was too short to learn German he surely had at least partly in mind Gothic script, which was in his day still in regular use. This ancient wisdom was passed down to Criticus, but just barely.

My sojourn at the archives finally resulted in learning that the relevant documents for dear cousin's researches (regarding her mother's mother's father's mother's parents) reposed, if they reposed anywhere, in the local archives in the town of Bad Homburg, as not all such items had been transferred to the state archives. So the next day it was off to Bad Homburg vor der Höhe, which translates as "Homburg Spa before the Heights," the "heights" being those of the Taunus Mountains that Homburg lies at the foot of. Alas it took the better part of the afternoon to find out where the archives were, which turned out to be a separate building on the edge of town. Admittedly I misjudged the not-to-scale map and thought it was but a short walk, which would also take me past the cemetery, often a good spot for a quick genealogical check of surnames. This one yielded nothing, so on I strolled. And strolled. And walked. And trudged.

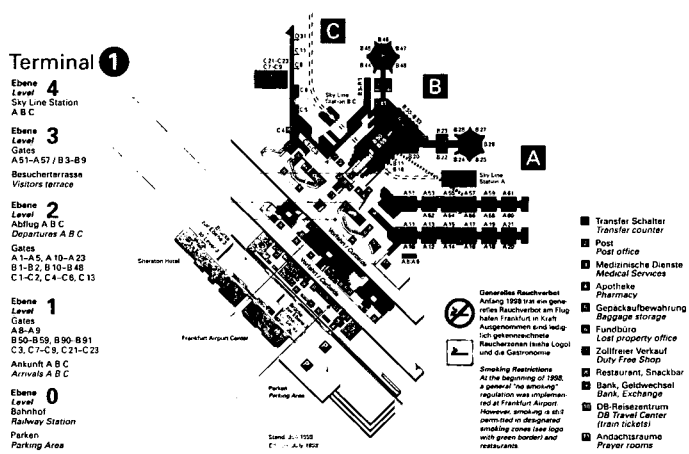
The town proper progressively gave way to purely residential areas, then to ever-grander houses on ever-grander lots. I half expected to come upon the residence of the Quandt family, which is somewhere in Bad Homburg. It is they who own most of BMW and vast other holdings as well. Gradually these larger houses were spaced farther and farther apart and the road became steeper. "Does the road wind uphill all the way?" I began to wonder in sympathy with Christina Rossetti. (The prophetic answer in the poem is "Yes, to the very end.") This road was clearly headed towards the heights that Bad Homburg lies at the foot of. Ever wearier, Criticus now found that the road was banked on both sides by open fields, and he was walking along a seemingly endlessly promenade flanked by huge trees through which a pair of magpies — glorious birds, but said to bring bad luck — swooped and sported. In fact, Criticus was in the country with only fields and forested mountains in view and he had been at this for on towards two hours.

FINALLY THE road came up to a large highway just a few lanes shy of being an autobahn. There was a crossover footbridge, which brought one out to a continuation of this road to infinity. Off in the distance, though, there appeared to be a structure. It was das Gotische Haus, the town archives! Callooh! Callay! By the time I reached it, it was closed.

Just down the street from the Gothic House was a bus stop with a bus that ran all the way into town and to the train station. It takes about a half-hour.

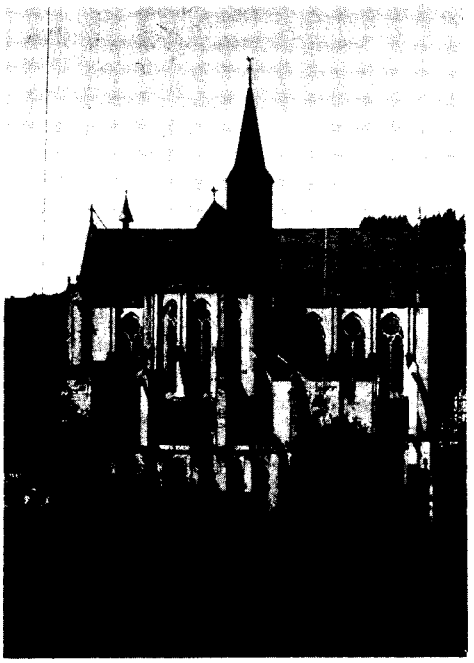
So, I had had a pleasant and vigorous visit in what turns out to be an elegant spa town, a town of several "firsts." The tourist brochures claim it as the site of the first casino in the world, the first tennis facility on the

The Frankfurt airport poses no problems if one is merely arriving or departing. But to plumb its depths one needs a degree from a German technical institute.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

European continent, and the first golf course in Germany. Constant Readers will likely assume that Criticus was lured from his duty by the casino, but it was not so. Nor did he succumb to the same lure in Wiesbaden, also a spa and casino town, though very much larger than Bad Homburg. He did learn from reading Wiesbaden tourist information that it was in Wiesbaden, not Baden-Baden as Criticus had always thought, that Dostoyevsky wrote *The Gambler,* based on his own addiction to roulette. Both the Homburg and the Wiesbaden casinos are very much grander than the one in Estoril, to judge from their exteriors and pictures of the interiors in brochures. Both post strict dress codes. Don't even think sandals.



Altenberg Cathedral

Wiesbaden was spared any serious war damage, which is one reason that the U.S. Air Force made it their headquarters after the war. Oddly, Bad Homburg was subjected to an air raid in March 1945, only a few months before the end of the war, and the nineteenth-century Kurhaus, the spa center, was destroyed. It is hard to imagine what strategic value this little resort town could have had, and one suspects that it was a mistake, or malice, or a matter of unloading some extra bombs after a raid on the great rail center of Frankfurt. Not quite the shame of the bombing of Dresden, to be sure, but not amusing either. Still, in the words of those apologists for whatever outrage the Snopses in the White House may have committed today, it was time to move on.

MOVING ON naturally meant moving on from the train station in the airport, so I booked a seat to Cologne on the train named the Gambrinus. Gambrinus was an early Germanic ruler said to have invented the art of brewing and thus to be the patron of brewers and drinkers, which seemed appropriate for going to Cologne where they offer a particular kind of very strong beer known as *Kölsch.* Next to it American beer is as Kool-Aid to vodka, so it is always something to look forward to when going to Colonia Agrippina, as the Latin had it, Köln in German, and Cologne in French, which English adopted, probably to avoid encounter with an umlaut.

The total run of the Gambrinus goes from Nürnberg to Dortmund in about four hours, with the Frankfurt-Cologne portion taking up about two hours. At exactly 1:01 in the afternoon the train glides noiselessly to the platform; at exactly 1:03 it glides noiselessly out. In the two minutes all debarking and all entering passengers must negotiate their ways off or onto the train in the take-no-prisoners policy of the Deutsche Bahn. Everything else about the trip is leisurely.

In Cologne, as Constant Readers will recall, Criticus has a longtime friend who tends to the cure of souls for the Cologne-Bonn section of the German-Scandinavian archdeaconry of the diocese of Gibraltar of the Church of England. (See Criticus, *CPR,* November/December 1997 for ecclesiastical details.) Not surprisingly, then, visiting churches in a city filled with them forms a regular part of our activities. Last time it was the landmark twin-towered cathedral where the Magi are reputed to be buried. This time, in addition to the Anglican All Saints where my friend presides, it was two notable churches in the city and a cathedral in the countryside. Each is worth attention for historical and cultural reasons and because these sites in Germany are generally not well known to Americans, who can be relied upon to make their way to a Westminster Abbey or a *Notre Dame de Paris* but not to the *Altenberger Dom* in the Odenthal.

The cathedral in Altenberg about 15 miles outside Cologne is a vast early Gothic structure sitting in the middle of a forest. One wonders how it came to be there, and the explanation is that it was originally a Cistercian abbey set up by monks dispatched from the founding Cistercian abbey in Cîteaux. From Altenberg the Cistercians sent forth disciples to many other places in Germany where their churches largely still survive. Like the monastery of Alcobaça in Portugal, also originally Cistercian (see Criticus, *CPR,* January/February 1999), this one is huge in size and scope and at the same time austere in decoration. There is a west window of some grandeur and color but all the other win-

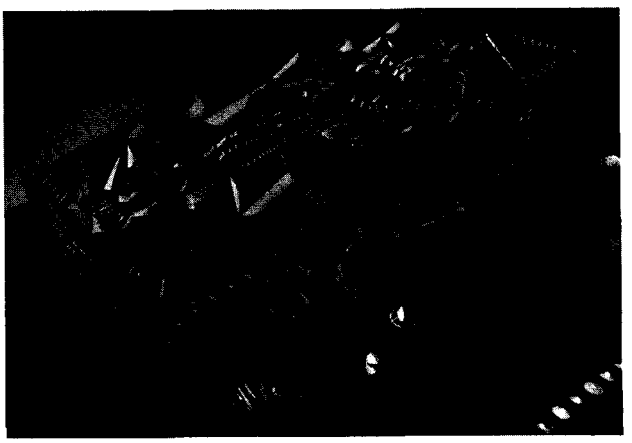
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

dows are plain and the interior is relatively devoid of statues or ornament. The church was secularized in 1802 and suffered over time from some neglect as well as from age, but today it is being grandly restored in a seven-year program and is used jointly for service by Catholics and Protestants, who presumably come from nearby towns and villages. Though all of this is prosaic enough, this cathedral in a forest seems like something out of a fantasy, as if it had sprung into being from a magician's wand, rather than having been created by a century's worth of toil. The Age of Faith may have been full of much more darkness and pain than its name suggests, but the majesty and endurance of the medieval cathedral remain a marvel that our own age is unlikely to equal.

BACK IN the city we looked in on *Santa Maria in der Kupfergasse* (St. Mary's in Copper Lane), which detractors call the most reactionary church in Cologne, by which they mean the most traditional. It did have enough candles to rival a Greek Orthodox cathedral and an immense line of the pious waiting their turn at the confessionals. But its most unreformed part is the chapel of the Black Mother of God, which features on its altar a black-skinned Madonna in a white besequinned gown holding a Christ Child and surrounded by banks of candles. No one I knew could explain to me the origin of this representation or why it is so relatively unknown compared to, say, the Black Madonna in Poland or our Lady of Guadalupe. Even so, this figure is so revered in Cologne that the altar is separated from the banks of kneelers by floor-to-ceiling metal grating, evidently to keep the faithful from touching the Madonna. If one wants to light candles at the altar, one buys them outside the chapel and slides them under the grating where at some future time an attendant will light them and place them round the figurine. Feeling a tad guilty for thinking that the doll-like object on the altar was rather tacky and looked a bit like one of those Franklin Mint designs for Scarlett O'Hara or, worse, Madonna Barbie, Criticus bought some candles and slid them under the grating in propitiation. Nevertheless, he suspects that the *Schwarze Mutter des Gottes* put a minor curse on him that caused him to lose a roll of exposed but not yet developed film.

Not far from St. Mary's but in an altogether more modern style stands the *Minoritenkirche,* the Church of the Friars Minor. Its chief interest for the visitor is that it holds, in a strikingly modern sarcophagus, the remains of John Duns Scotus (1265-1308), the Scottish Franciscan theologian who ended his days in Cologne. It was not out of impiety but of respect for historical and linguistic fact that Criticus informed his circle at All Saints that it is from Duns Scotus that English derives the word *dunce,* but they seemed to take it ill. It *is* a bit perplexing in that Scotus in his day was known as the Subtle Doctor, but apparently it derived from his extreme particularity and closeness in reasoning, so that its original meaning was of one given to "impossibly ingenious distinctions." "Impossibly ingenious" deteriorated into just plain stupid. Thus does posterity treat scholars. Possibly Scotus collaborated with the Black Mother in disposing of my film, but one would think that after almost 800 years he has come to terms with his verbal fate.

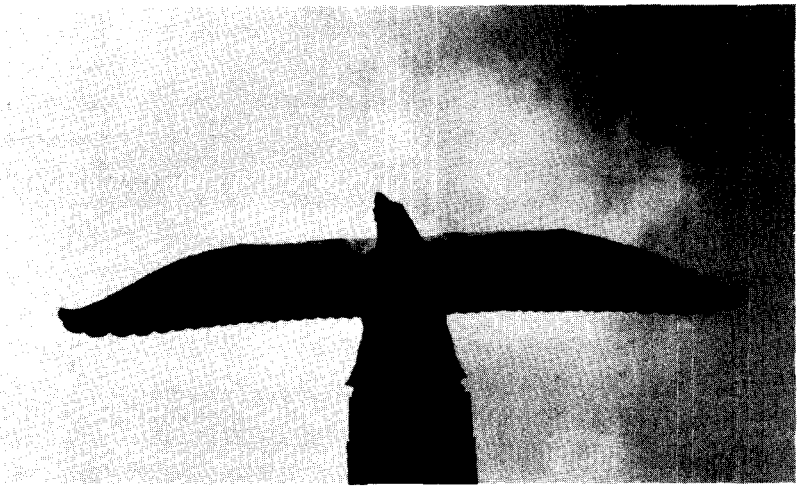
Well, so much piety quite did for Criticus and he set off in search of less sacred sites. He found two, each worthy of a visit. The first is the *Ehrenmal,* a sadly neglected memorial to German heroes of the First World War. This monument is so aesthetically glorious it ought to be in the guidebooks as "worth the detour," though it didn't appear in any guide that I had. One suspects the authorities are pretending it's not there. It sits along the Rhine well south of the main city in an almost abandoned park where wanton boys race skate-



The Minoritenkirche, the Church of the Friars Minor, holds the remains of John Duns Scotus (1265-1308), the Scottish Franciscan theologian who ended his days in Cologne.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Ehrenmal, a sadly neglected memorial to German heroes of the First World War — the world's most magnificent and menacing eagle.



boards and spray graffiti and where weeds run rampant. But oh, the massive, tall shaft atop which stands, wings outspread as if in flight, the world's most magnificent and menacing eagle. This is worth more than a detour: it's "worth a journey."

YES, OF course it is a monument to war, or rather warriors, but what country is without such? Certainly not the increasingly bellicose United States which will soon run out of space for commemorating all of its wars, declared and undeclared. Moreover, the *Ehrenmal* has real style. Even in its forsaken garden it has more vigor than the over-praised and well-tended Vietnam Memorial, which Criticus sees as essentially an adaptation of those hundreds of college chapels with their lists of graduates fallen in various wars. Ho hum. Give me that eagle, cry "Havoc!" and let slip the dogs of war.

If you want repentance the place to visit is the preserved Gestapo Prison in the midst of the old portion of downtown Cologne, one of the few buildings left standing at the end of the Second War. So too was the Cathedral. After the war the Allies claimed that they had spared Cologne Cathedral out of respect, but the locals insist it was simply because it was such a prominent landmark that it provided excellent orientation for bombing everything else. The Gestapo Prison is certainly not an especially handsome structure, and it was certainly not intentionally spared. But it has been intentionally maintained as a reminder of the vicious character of the *Geheime Staatspolizei* (Secret State Police), for here many were held on flimsy charges, many were tortured, and many hanged. Not as it happens many Jews, who were sent elsewhere, but foreign workers and prisoners of war and other unfortunates.

The cells have been preserved almost exactly as they were, and the rest of the sizable building that held the offices of the Gestapo has been turned into an extensive display of the activities of the police during the 10 years they occupied the site. There are countless photos and reproduced documents, numerous television sets showing news footage of the time, and above all there are reproductions of the 1,800 wall inscriptions and carvings left in the prison cells by those incarcerated there. A sobering place to visit, as it is meant to be.

Back in the contemporary world Easter was looming. Every shop window was decorated with colored eggs and Easter rabbits (rendered properly as hares, not little white bunnies). The displays rivaled what one would see here at Christmas. There were colorful Palm Sunday processions, not just outside churches, but on main thoroughfares where whole congregations would proceed to the church in distinct order. A crucifer led the clergy who were followed by the children of the parish bearing specially designed bouquets of colored paper flowers. Then came the adults carrying, not palms or palm fronds, but branches of some sort of deep green shrub. Such little traffic as there was on a Sunday morning stopped as these processions made their way down the center of the street. I was not in town long enough to see any Easter parades, but one imagines they would have been even more resplendent.

For Criticus it was back to the Frankfurt airport on the *Regensburger Domspatzen,* a train that begins in Dresden at 8:25 in the morning and ends at Passau on the Austrian border at 10:41 in the evening, making almost a circle through the center of the country, though my portion of it was again only two hours. Cologne, having more traffic than the airport station, is allotted *four* minutes for exiting and entering, which is most generous.

AS WE glided alongside the Rhine, I read the printed travel plan available at my seat telling you everything you ever wanted to know about the train, its times, distances, connections, and so on. Most charming in this instance was

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the explanation of the name of the train. Not this time the patron of brewers. No, "Regensburger Domspatzen" means "Regensburg Cathedral Sparrows," which in turn is the affectionate name applied to the boys' choir founded by Bishop St. Wolfgang in 975 and today the choir of St. Peter's Cathedral in Regensburg, one of the stops near the end of the run. Perhaps sparrows live in cathedral towers in many places, possibly even Altenberg, but only in this instance have they given their name to a choir. The question occupied my thoughts all through the ride: if one were to come back as a bird and one could choose, which would you choose to be — a cathedral sparrow or a monumental eagle?

I'm still thinking it over.

CPR

BOOKS

They'll Lose Their Preferences!

BY GLYNN CUSTRED

DURING A discussion on race at San Jose State University author and professor of English Shelby Steele argued that black students, like Asians, should focus on succeeding through self-reliance and individual excellence rather than through the largess of the majority and the government coercion of bureaucratically-mandated racial preferences. A professor of Black Studies rose to contradict Steele's argument. "Anger had stolen her self possession," says Steele, "and so out of a kind of general alarm" she said, "if black students do well, they'll end up like Asians. They'll loose their preferences ...." In other words the professor, who had only her students' best interests at heart, saw their fate as lying not in their own hands, but rather as contingent on the intervention of outside forces.

As *A Dream Deferred* repeatedly demonstrates in great detail, the civil rights movement seems thus to have turned its own original objective on its head. A noble political effort begun with the straightforward, all-American goal of insuring that blacks be treated like everyone else — as individuals free to lift themselves up by their own initiative, and not as a faceless racial mass, exploited; manipulated, and patronized — has somehow reached the sorry state of relying so completely upon racial *preferences,* of all things, that in the mind of even a professor of Black Studies blacks simply *must* have them for their own good. This, says Steele, is the dream deferred, America's second betrayal of black freedom.

A Dream Deferred
The Second Betrayal of Black Freedom in America
Shelby Steele
Harper Collins Publishers, 1998, 185 pages, $24, cloth

A Dream Deferred first documents the fall from championing individual rights and equality before the law. It then shows the disastrous consequences preferences have visited upon the very people this wayward movement began by trying to help. Steele traces the increasing corruption preferences foster in all our institutions as this perverse regime of "fighting" racism through counting by race struggles to maintain itself using deceit and intimidation. This regime accelerates the growth of bureaucratic government with all the arbitrary, wasteful, destructive, and unjust exercises of authority that bloated bureaucracy invariably entails.

STEELE WRITES from firsthand knowledge: he has seen it all himself, beginning with his 'days as a youthful civil rights activist on through to his time as English professor at San Jose State University. He is deeply disturbed by what the

Glynn Custred is professor of Anthropology at California State University, Hayward, and Co-author of California's Proposition 209.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

preference regime has done to his own people, robbing them of the incentive to succeed and often wasting, for them, the unprecedented opportunities now available. *A Dream Deferred* identifies the villains in this drama: the grievance industry — the black and white opportunists who live by exploiting social tension — and their enablers, also of both races, who passively support this corrosive regime out of apathy, cowardice, or, in more than a few cases, a lurking suspicion that maybe blacks are *indeed* inferior.

BOTH POLITICAL Parties participate. Democrats — at least those who control the Party — unshakably side with the grievance industry exploiters who, after all, constitute one of their major constituencies. And Republicans? Unfortunately, they often turn up among the worst of the enablers, steadfastly refusing, like a convocation of see/hear/speak-no-evil monkeys, to denounce this system for what it is. Steele's book should put them to shame, first by showing that a principled stand against preferences is in everyone's best interest, and second by showing how this position can be argued to win! It seems almost silly to have to say it, but an appeal to individual rights and equality before the law — core principles with which most Americans still obviously identify — would put the Democrats *on the defensive.* It would make *them* support the unjust, wasteful, and just plain stupid proposition that blacks can't make it without special privileges.

But Republicans do not seize the issue. Why not? Many of them say they think it is a political loser, a notion bereft of supporting evidence and resoundingly belied by Proposition 209's success in California and the victory of its twin in Washington state (I-200). A second, and perhaps more honest, reason they avoid the issue is that, for all its virtues and popularity with most people, arguing against race preferences remains unpopular in elite social and political circles. It therefore means risking having the establishment media say unpleasant things about you. Worse, it often means actually going out and *doing* something at a time when a lot of Republicans seem simply too lazy and/or unsure of themselves to take the risks or make the effort. The slothful GOP pattern during last year's congressional elections, for example, was to try riding to victory on Clinton's trouble rather than to propose and actively defend genuine Republican political and policy alternatives. Their unwillingness to take strong stands included a general unwillingness to oppose race preferences. This overall GOP laziness backfired, contributing to their losing rather than gaining seats. The wonder is less that the voters saw this uninspiring exercise in "leadership" for what it was and withheld their votes than that the political experts who crafted it were dumb enough to think it was a winner.

THIS LAZINESS achieves, paradoxically, an even greater than usual intensity on the issue of preferences. Some Republicans, for instance, seem to *like* race preferences mainly for their simplifying value. They apparently prefer to deal with people by category because it is easier: whole races, for instance, can be taken care of merely by responding to their "leaders," mouthing a few phrases of boilerplate rhetoric, performing the usual rituals — accumulating staff, for instance, by the quota system, so many of each requisite color, ethnic group, religion, and gender. Of course it's all quite dishonest and hypocritical, but for many Republican politicians, nothing seems so wearying as the thought of staking out an honest position that the establishment finds inconvenient and will oppose with vigor and vehemence.

But Republicans have no reason to exist except to stand against this manipulative, genuinely uncaring establishment. Democrats already serve the purpose of rationalizing, for the convenience of those at the top, the grinding of people lower down in the wheels of the machine. And they do a fine job at that. To Republicans, alas, is left the usually thankless job of opposing the grinding. This is the Lincolnesque purpose that brought about the Party's founding in the first place; it remains the more difficult road to follow in politics, but it is also the only honorable one. Those wise enough to follow it will find much that is useful in Shelby Steele's *A Dream Deferred.* CPR

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Paradise Cove Classic Jazz Band

Exciting Dixieland for Fund Raisers, Celebrations, etc.

Paradise Cove CLASSIC Jazz Band Richard Morgan

714 - 848- 9123
covenantltd@earthlink.net
7641 Amazon Drive, #2
Huntington Beach, CA 92647

Proudly Features

- ❖ **Richard Morgan** drums, leader
- ❖ **Jim Ogden** trumpet, cornet, & tuba
- ❖ **George Gibbs** trombone
- ❖ **Brooks Coleman** clarinet, soprano sax
- ❖ **Sheryl Greenwood** Vocals
- ❖ **Don Richardson** guitar, banjo
- ❖ **Mike Earls** string bass

"This is a band of talented and skilled musicians, playing with intensity and precision"
Jazz Rambler

Artistry in word & image ✻ *Artistry in word & image* ✻ *Artistry in word & image* ✻ *

Lions & Tigers & Donkeys. . .

Oh My!

In the political jungle even the mighty pachyderm needs some help finding the yellow brick road and fighting the never ending barrage of predators.

THE MONACO GROUP

The one-stop for all your campaign production needs when you don't have time to stop!

THE MONACO GROUP

701 East Ball Road
Suite 102
Anaheim, CA 92805
714-533-5180
FAX 533-5181

ALL YOUR PRINTING, PERSONALIZATION & MAILING NEEDS FOR POLITICAL CAMPAIGNS AND FUND RAISING

rcmj97

tyfswv

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED